

## Transportation – Catastrophic Bus Accident

### SERVICES

Transportation Law

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Scott M. Carroll

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#### GILLETTE STADIUM BUS CRASH

Boyle | Shaughnessy Law received a defense verdict in a catastrophic bus crash at Gillette Stadium. The case was tried before Judge Brassard in Suffolk County. The trial, including jury deliberations, lasted approximately three weeks. The first week of the plaintiff's case was targeted at the conduct of the bus driver and the operation of the bus. The defendants, operator Rebecca Valentin represented by **Scott Carroll**, and Arrow Lines Bus, also represented by the firm were able to successfully rebut criticisms regarding the bus operation and alleged negligence.

The case arises out of an accident in the Gillette Stadium parking lot. At the time the parking lot was being used as a staging and transportation area servicing the Deutsche Bank Golf Tournament at TPC Norton.

On a clear, sunny day, a bus operated by Rebecca Valentin transporting patrons from the tournament back to their automobiles at Gillette Stadium struck a security gate that had been left unsecured. The gate suddenly and unexpectedly rotated into the bus's path of travel and speared the bus penetrating into the third row of passengers. The intrusion resulted in multiple catastrophic injuries. Expert testimony and witness accounts revealed that a prevailing wind of 20 to 25 miles per hour propelled the unsecured security gate into the bus's path of travel. The gate moved in a clockwise position for a total of approximately 9 feet and speared the right lower corner of the bus. When the 350 pound aluminum security gate penetrated the passenger compartment it was partially sheered creating a razor-like edge. The plaintiff pursued the bus defendants on two theories: The driver was speeding and the driver was inattentive. There were approximately 20 percipient witnesses whose testimony came before the jury on these two issues. The testimony came from bus passengers, State Police, parking personnel and security officers.

In addition, the plaintiffs offered the expert testimony of Stephen Benanti, a retired State Police accident reconstructionist. In part Benanti sought to discredit the testimony of Sergeant Andrew Klane, the accident reconstructionist assigned to the crash by the Massachusetts State Police within an hour of the event. Benanti, who was working for the State Police at the time was critical of the methods used by Klane in his analysis. Klane concluded that the bus was traveling between 20-29 mph at the time of the accident, and opined given reasonable perception- reaction to a hazard that is unexpected and coming from "off the road", that this

accident could not be avoided. Benanti expressed a speed range of 34-39 mph, and an exaggerated opinion of perception- reaction. Benanti's opinions were damaged by a traffic engineer, Kim Hartzavatian, called by the plaintiff. It was developed on cross-examination that Benanti had expressed an opinion to Hartzavatian 3 1/2 years after the accident, that the speed range was 24-34 mph. Hartzavatian included Benanti's opinion relative to speed in an affidavit he signed in February 2007, but did not reveal the source of the opinion until confronted on the witness stand.

There were numerous serious injuries, including the traumatic amputation of one passenger's lower extremity. As a result, three passengers were airlifted from the scene and there was extensive news reporting of the event. At trial the jury considered the case advanced by the Estate of Thomas Kelly who passed away approximately 25 days after the incident, while hospitalized. During his hospitalization Kelly underwent five surgeries in eight days.

There was extensive testimony from representatives of the Foxboro Realty Associates, Standard Parking and Apollo Security with regard to the operation of the facility, the gate opening protocol, gate design and the responsibility of the various entities with respect to securing the gate in an open position.

Plaintiff's counsel made a demand of \$10 million which he maintained throughout the course of the trial. At the conclusion of the case, the jury rendered a verdict of approximately \$6.1 million with interest to the Kelly family which was comprised of a widow and two adult sons. The jury found three of the five defendants negligent while returning a verdict in favor of Rebecca Valentin and Arrow Lines Bus.