

LITIGATION

High Court Signals It May Rule Against Ralphs in Truck Crash

By Laura Ernde
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The state Supreme Court appeared ready to rule Tuesday that truck drivers parked on a road's shoulder can be held liable when another vehicle crashes into their big rigs.

During oral argument, the justices signaled their willingness to overturn a 4th District Court of Appeal ruling and reinstate a \$475,000 judgment against Ralphs Grocery Co.

A jury found Ralphs partially liable for the February 2004 death of Adelelmo Cabral, who likely fell asleep at the wheel of his pickup before it swerved off Interstate 10 in San Bernardino County and hit the back of a Ralphs big rig.

'The sign is not a "park here" sign.'

— Jeffrey I. Ehrlich

Grocery truck driver Hen Horn had stopped to eat a sandwich, parking in the dirt off the highway in an area designated "Emergency Parking Only."

A 2-1 4th District panel found that as a matter of law, Horn owed no duty to Cabral to avoid stopping in the emergency parking area.

The high court justices zeroed in on the no-parking sign and whether it put Horn on notice that stopping on the shoulder might put other drivers at risk.

Ralphs' defense lawyer, Lillie Hsu of Greines, Martin, Stein & Richland LLP, argued that Horn could not have foreseen the danger of a pickup careening wildly into his big rig, which was parked 16 feet off of the highway. She pointed out 16 feet was about the distance between herself and the chief justice.

"Accidents happen, so we have a duty to get out of the way?" she said.

But Justice Carlos R. Moreno, in his last oral argument before he retires at the end of the month, pressed Hsu to give a distance off the highway that would be safe. "Where would you draw the line? Six feet or 3 feet? Would the driver still be immune from liability?"

Jeffrey I. Ehrlich of The Ehrlich Law Firm, who represents Cabral's family, argued that just because it's safe to park off of the road in an emergency doesn't mean it's always safe.

"The sign is not a 'park here' sign," Ehrlich said.

Justice Carol A. Corrigan seemed to agree.

"It says, 'no parking except in an emergency.' It doesn't say, 'Gee, if you want to have a bite, pull over here,'" she said.

Chief Justice Tani Cantil-Sakauye pointed out that Ralphs recognized the danger and already instructed drivers not to make nonemergency stops along the interstate.

Hsu argued that there's an important public policy reason to immunize Ralphs against tort liability — to encourage drowsy or distracted drivers to pull off of the road for safety.

Ehrlich argued that all drivers have a duty to act reasonably for the safety of others and that Horn's decision to stop in an emergency parking zone to eat a snack was irresponsible.

"There are rest areas. Using them would be a better public policy choice," Ehrlich said.

The justices suggested that a driver who had a legitimate emergency could be absolved of liability, but that that question might be for a jury to decide, depending on the case.

"So if we think 16 feet sounds pretty reasonable, that's not a judgment for us to make," said Justice Kathryn Mickle Werdegar.

The court's ruling is due within 90 days. The case is *Cabral v. Ralphs Grocery Company*, S178799.

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