

# Texas Supreme Court: Limited employer liability for fatigue-related off-duty conduct

In a much-watched case, the Texas Supreme Court has refused to expand employer liability for employee off-duty conduct. That's good news for employers, which faced the possibility of greater liability had the court ruled differently.

**Recent case:** Robert Ambriz was just 19 years old when he was hired by Nabors Drilling to work in its oil fields. His schedule required working 12-hour day shifts from 6 a.m. to 6 p.m. one full week. Then he had a week off before returning to work nights from 6 p.m. to 6 a.m. the following week.

After the end of one shift at 6 a.m., Ambriz got into his car and headed for home. All shift employees had the option of remaining on site and sleeping in trailers provided by the company. They could drive home if they felt awake enough to do so safely, but the company didn't do anything to check for fatigue.

On his way home, Ambriz's vehicle drifted into oncoming traffic and collided head-on with a car. Ambriz and all the occupants of the car he hit died.

The estates of the victims sued Nabors Drilling, alleging it had been negligent in allowing Ambriz to get into his car and drive home after such a long shift. Attorneys argued employers have a duty to ensure that employees who work long hours are capable of driving home safely. By ignoring that duty, they contended, Nabors Drilling was liable for the foreseeable consequences.

In this case, they argued, that meant the company was responsible for all the deaths that resulted from Ambriz crossing the yellow line into oncoming traffic. A jury agreed and set total damages at \$5.95 million.

After appeals, the case headed to the Texas Supreme Court, which considered its past rulings on employer liability for employee conduct after leaving work and decided not to expand employer liability.

It said that employers have been held liable when they allowed an employee to leave work clearly under the influence of alcohol or when the employee had been required to drink alcohol during a shift. But the high court did not want to extend that liability to situations in which the employer's choice of shift assignments might mean employees would be tired from working long hours, especially when there was nothing obviously wrong with the employee when he left work.

The court said, "We acknowledge that traffic accidents may occur when drivers are excessively fatigued, but we do not believe that this generally known risk of driving while fatigued justifies holding the employer liable for an employee's off-duty fatigue-related automobile accident."

The court also said the employer had no separate duty to train employees about fatigue and its effect on driving. The court said it is common knowledge that one should not drive when very tired, and that Ambriz understood that risk. His employer didn't have to check him for signs of fatigue. (*Nabors Drilling v. Escoto, et al.*,

