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Santa Fe judge lets \$165 million verdict against FedEx stand

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SANTA FE – The FedEx shipping company’s motion for a new trial in a wrongful death suit that resulted in the New Mexico’s largest-ever jury award was rejected here Wednesday by a Santa Fe judge, who also declined to reduce the jury’s \$165 million judgment.

A corporate spokesman for FedEx said later that the company, which was sued over a southern New Mexico crash involving a FedEx truck in which a mother and daughter were killed in 2011, will take the case to the state Court of Appeals.

“We continue to extend our deepest sympathies to those affected by this tragic accident,” said FedEx’s Perry Colosimo. “With regard to the judge’s ruling on post-trial motions, we respectfully disagree and will appeal.”

Sen. Joseph Cervantes, D-Las Cruces, a plaintiffs’ lawyer in the case, tweeted after state District Judge Francis Mathew affirmed the verdicts, saying the judge had denied motions intended “to avoid (the) good judgement of jurors.” Cervantes said later that the case “remains a sad story” for the family of crash victims Marialy Morga, 22, and her daughter Ylairam, age 4, of El Paso. A large contingent of relatives were in the courtroom Wednesday, and “they appreciated the judge’s affirmation of the hard work done by the jury in January,” said Cervantes.

James Scherr, another attorney for the family, said: “FedEx has never paid anything for this tragic event, the double deaths of four-year-old girl and her mother, and that totally disrupted the Morga family, and it has never apologized. It appears they’re going to use the system and delay justice longer. They will do everything they can to avoid responsibility.”

On June 22, 2011, a FedEx tractor-trailer rig ran at high speed into the Morga family’s pickup that had either stopped or was moving slowly, with flasher lights going, on Interstate 10 near Las Cruces at about 1:30 a.m. The pickup was at least partially in a traffic lane. The family’s lawyers attacked FedEx for contracting out its trucking services and said the truck driver had emotional problems and was on medication for sleeping problems. “The Morga family continues to struggle with this and we’ll be doing everything we can to see justice for them,” said Cervantes.

Judge Mathew took over the case after the January trial. The trial judge, Sarah Singleton, had recused herself over an “ex parte” phone call she had with a plaintiffs’ lawyers just after the trial.

Defense lawyers used her recusal to argue against what they called a “monstrous” jury award, seeking a new trial and saying a judge like Mathew who hadn’t overseen the trial couldn’t “decide meaningfully” on reducing the amount “based only on the ‘cold record.’” Scherr said it’s not unusual for another judge to take over a case after trial, noting that judges leave their benches via retirement or disability.