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# Update: an attorney comments on the Florida truck driver's \$4,700 jury award and the subsequent legal fee battle

July 30, 2018 John Kingston, executive editor



<https://www.freightwaves.com/news/news/driver-lawsuit-whistleblower-florida-8npzz>

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It must have been an exciting day last December for truck driver David Couch. His lawsuit against Randall Rents of Florida, which rents industrial equipment, had come in from the jury and he was a winner.

Couch had refused to drive a truck because he thought it was unsafe. As a result, he was dismissed. He filed suit claiming his rights had been violated under the Florida laws governing what it describes as "whistleblowing."

The jury agreed. It awarded Couch damages. The amount? A whopping \$4,720.

And now the case drags on in court, because the lawyers want to get compensated, and taking a piece out of \$4,720 doesn't pay for much.

That's why the [legal filings in the case](#) continue to fly, long after the case was adjudicated.

In the initial publication of this story, we reported that attorneys in the case had not responded to emails from FreightWaves. But Chad Levy, one of

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the attorneys for Couch, has since contacted FreightWaves.

Among his key points:

- The evidence was "really clear" that Couch refused "to do something illegal, drive a faulty truck 600 miles, which violates Florida law. And they fired him for it. There was really no defense to it."
- Couch quickly got another job, which is why the payment was so small.
- As far as the ongoing battle over legal fees, Levy said Randall would not settle the case and instead it went to trial. "They lost and now they owe over \$30k in attorneys fees/costs to us, which they have refused to pay so we are having to continue forward with contempt orders against them and further discovery until they pay."

Beyond Levy's statements, there are enough legal documents to piece together what happened in the case where the requested legal fees are many times the amount of the award.

(Not to get political but it spurs memories of one of the first significant legal battles where the public met Donald Trump, back in the mid 80's. Massive sums were spent on an antitrust battle between the United States Football League and the NFL, and the USFL, led by New Jersey Generals' owner Trump, won the case. The award? One dollar, tripled because it was an antitrust case. [A terrific book](#) was written about it.)



GOT A STORY IDEA?



According to one of the documents in the case, Couch joined Randall in January 2014 and "performed his job in an exemplary manner, and had only received positive remarks and reviews from his superiors."

## A "shimmy sound"

Toward the end of his time there, according to the document, he complained to management that there was a "shimmy sound" coming from the front of his truck, and that his transmission was the likely source of the sound.

An inspection of the truck was scheduled, but before it could take place, Couch was told to drive to Gainesville, Florida "with the faulty and dangerous truck." The trip would be about 600 miles round trip.

"At this time, (Couch) refused to do the trip as...he believed it would be dangerous to send out a knowingly faulty vehicle that type of distance," the document said. He refused to go on the trip and was fired.

According to the original lawsuit, Couch's activity was protected under various Florida statutes known as the Florida Whistle-Blower Act, as well as laws regarding the operation of a vehicle known to be dangerous. Couch and his attorneys asked that the court declare that Randall's acts had violated the Whistle Blower Act; that back pay and other financial considerations be paid, including "compensatory and consequential damages"; and

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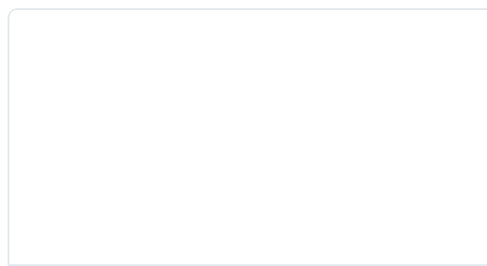
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that Couch be awarded "reasonable attorney's fees" and other legal costs.

In the two-page jury verdict, the jury answered "yes" to the following questions:

--"Do you find that the Plaintiff (Couch) objected to, or refused to participate in, conduct that Plaintiff reasonably believed would be a violation of Florida Statutes 316.610 and 316.6105? *(Those statutes involve knowingly operating a vehicle that the driver knows or believes is unsafe).*"

--"Do you find that the Plaintiff's termination was causally connected to his objection to, or refusal to participate in, conduct that Plaintiff reasonably believe would be a violation of (the safety statutes)?"

A "no" answer was then provided to the following question: "Do you find that the Defendant (Randall) provided a legitimate, non-retaliatory reason for terminating the Plaintiff?"



The final question on the jury sheet: "Should the Plaintiff be awarded damages to compensate for loss of wages and benefits from the date of termination to the date of new employment?" The yes box is checked. On the line where the compensation is requested, there's the number; \$4,720. There is no explanation why the amount was so relatively small.

In the instructions to the jury, the judge said a finding in favor of Couch should consider "the following elements" in setting the size of the award: the difference between lost wages and benefits to the date of the trial (the trial was in November-December 2017, and Couch was fired in May 2015); any wages to be lost in the future; and any "emotional pain and mental anguish."

A court did order in early January that an additional \$25,000 in legal fees be paid by Randall to the attorneys for Couch for costs incurred up until the decision in the case, as well as about \$5,350 to Couch himself for expenses he incurred.

But with the attorneys not viewing that amount as adequate, the litigation goes on. Legal documents continue to fly back-and-forth between Couch's and Randall's attorneys, leading to the conclusion that the monetary value of the hours being spent on the after-case by both sides' attorneys might end up being equal in value to the size of any award.

As for the size of those requested awards, attorney Chad Levy is asking approximately \$40,300; David Cozad just a touch under \$3,000; and Evan Krakower \$25,150.


Round the total up to \$70,000. Even if you ignore the roughly \$30,000 awarded in January to the attorneys and Couch, it means the court award is about 7% of the legal fees now being contested.

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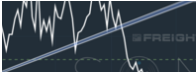
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