

In *Wilhelm v. Flores*, 2003 WL 22479211 (Tex. App.--Corpus Christi, October 30, 2003), the court considered the duties beekeepers owe to bee workers. Santos Flores died from anaphylactic shock "triggered by a bee sting." John Black operated a honey bee business and, in 1994, needed help in moving some bee hives he had purchased from Curtis Wilhelm. While moving the hives the men wore bee suits and veils. However, Flores was apparently stung, suffered anaphylactic shock and died. The jury found Black and Wilhelm negligent and grossly negligent in the death of Mr. Flores.

The court first considered whether beekeepers have absolute liability of the kind that is applied to the keepers of wild animals. The court decided that bees, unlike wild animals, are within the classification of *ferae naturae* which have been domesticated. "This Court has previously recognized that where a wild animal is domesticated, the owner is not liable for injuries caused by the domesticated animal unless he 'knew that the animal was accustomed to do mischief, or . . . [he] committed acts of negligence which proximately caused the injury.' [citations omitted]."

The court next considered whether there was evidence that the defendants were negligent. Plaintiffs had sued the defendants under five theories of negligence. They claimed defendants were negligent for (1) failure to have a reasonable safety program; (2) failure to ensure Flores was tested for bee sting allergy; (3) failure to provide proper protective equipment and instructions on how to use such equipment; (4) failure to warn Flores of the dangerousness of honeybees and Africanized bees; and (5) failure to provide Flores with proper and timely medical attention.

The court found that the defendants had failed to warn of the dangerousness of bees, and such failure was a proximate cause of the death of Mr. Flores. Because they found negligence on this failure to warn theory, they held there was no need to examine whether there was sufficient evidence to support the jury's verdict on any of the other allegations of negligence pled by Plaintiffs.

The court next considered whether there was sufficient evidence to support the finding of gross negligence. Gross negligence means "more than momentary thoughtlessness, inadvertence, or error of judgment. It means such an entire want of care as to establish that the act or omission in question was the result of actual conscious indifference to the rights, welfare, or safety of the person affected by it." The court noted that Flores had been furnished with a bee suit and there was no evidence that it was known that Flores was allergic to bee stings. Thus, the court refused to find that Defendants were consciously indifferent to Flores's welfare and safety. The court overturned the verdict on gross negligence, but affirmed the verdict that the defendants were negligent.

Except from "A Brief Overview of Bee Law in Texas" by Donald Ray Burger, Attorney at Law <http://www.burger.com/beelaw.htm>