

****Cases of the Year****

From 1998 to Today



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****Cases of the Year****

From 1998 to Today

The cases shown on the following pages are cases that were either tried in court (judge or jury) or else settled without the necessity of a trial. It has been an honor to represent all of our clients through all of the years. The successful finalization of the cases listed below and described on the following pages has caused us to feel honored and privileged to represent these good people in these meaningful cases.

1998

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

HELEN HAVRUM

Plaintiff

v.

UNITED STATES OF AMERICA

Defendant

)
)
)
)
)
)

Case No. 95-4207-CV-C-5



Mike Stewart photo

Helen Havrum, escorted by attorney Claudio Molteni and surrounded by family, leaves the MU School of Law Building yesterday after federal judge Nanette Laughrey ordered the government to pay her \$450,000 for the wrongful death of her husband, Elzie Havrum, at Truman Memorial Veterans Hospital in 1992. Laughrey said she believes nurse Richard Williams deliberately killed Elzie Havrum and that hospital officials ignored the danger Williams posed to patients.

By RUDI KELLER
of the Tribune's staff

A killer nurse stalked the halls of Truman Memorial Veterans Hospital in 1992, and officials ignored the problem until it was too late for World War II veteran Elzie Havrum, federal judge Nanette Laughrey declared yesterday.



Kurtz

"I believe nurse" Richard "Williams killed Elzie Havrum," Laughrey said as she explained her ruling from the bench.

Laughrey awarded widow Helen Havrum \$450,000 as compensation for the loss of her husband, as well as attorney's fees. Havrum had sought a total of \$554,440. Laughrey said she would follow her oral ruling with a written opinion.

The end of the eight-day civil trial came as Laughrey announced she was ruling against Helen Havrum on the issue of medical malpractice. The two-year limit for filing a medical malpractice claim against a federally operated hospital lapsed on June 15, 1994, the second anniversary of Elzie Havrum's death, Laughrey ruled, noting that Helen Havrum's claim was not filed until August 1994.

That decision had many in the courtroom expecting Havrum would also lose on her claim of negligence against the hospital. But it became clear she would prevail as Laughrey described the findings of law she had to make to hold the hospital liable for Elzie Havrum's death.

"I am convinced the VA staff was alerted to the relationship between Richard Williams and deaths prior to Elzie Havrum's final admission," Laughrey said.

In August and September 1992, VA chief of research Gordon Christensen analyzed the deaths statistically and discovered an enormous risk associated with Williams. It shouldn't have taken that kind of evidence to show what was occurring, Laughrey said.

"The VA management should have known because of the increase in the raw numbers of deaths and codes," she said.

"I am convinced the VA staff was alerted to the relationship between Richard Williams and deaths prior to Elzie Havrum's final admission."

— federal judge Nanette Laughrey

The ruling is the first time the evidence alleging that Williams is a killer was aired in a court of law. Havrum attorneys John Kurtz and Claudio Molteini had only to prove their case by "a preponderance of the evidence," not by the higher standard of "beyond a reasonable doubt" that criminal courts require, Laughrey

reminded the audience.

The deaths at Truman Memorial burst into public view in late September 1992 when the

Tribune and KMIZ-TV reported that the hospital was conducting an internal investigation and that a nurse had been taken out of patient care.

A week later, two employees of the hospital contacted FBI agents through then-state Rep. Ken Jacob and convinced them that sufficient evidence existed for an investigation and that hospital officials were trying to squelch the affair. Six months later, the FBI exhumed and autopsied 13 veterans, including Havrum, and the case stalled after that. The statute of limitations on federal prosecution ran out last August.

"I do not want anything in my opinion to suggest" negligence by the FBI, Laughrey said. "I cannot say the same about the VA."

Laughrey said the hospital had a duty to protect Elzie Havrum and all other patients from danger. And, she said, hospital officials "knew or should have known" that Williams

was viewed by many of his co-workers as presiding over too many deaths and emergency calls.

There was time to act on that knowledge before Havrum's death and there were ways open to officials, even short of firing Williams, to ensure patients were not in danger.

"The VA was negligent for failing to intervene," Laughrey declared. "The first and foremost concern should be the patients, not Richard Williams' feelings."

During testimony, a nursing supervisor of Williams had said she did not move him off Ward 4 East despite request from his floor supervisor because she was worried about Williams' career future. Since he quit the hospital in 1994, Williams has given up his nursing license and lives in St. Charles County.

Williams could not be reached for comment on the ruling. He has repeatedly asserted his innocence, but

did not testify during the trial.

Laughrey said she was convinced by testimony from expert witnesses put on by

Havrum's lawyers that a codeine overdose had been administered in the hours before his death.

Defense witnesses tried to undermine those assertions, claiming that the evidence of codeine levels was not conclusive and that other observed evidence at the time of Havrum's death did not fit with a codeine overdose. Ironically, the defense experts were the same people who autopsied and analyzed tissue samples from Havrum as part of an FBI criminal investigation of Williams.

"I found defense experts to be self-serving and with a tendency to overstate things," Laughrey said.

According to his medical charts, Havrum received two Tylenol 3 tablets at 11:30 p.m. June 14, 1992. He was pronounced dead at 1:15 a.m. on June 15, 1992.

"There was codeine that could not be accounted for by the administration of Tylenol 3," Laughrey said.

Ruling leaves Havrums thankful, government attorneys in disbelief.

By RUDI KELLER
of the Tribune's staff

Life returned to normal for Helen Havrum and her family yesterday evening after they won a federal court ruling that officials of Truman Memorial Veterans Hospital negligently supervised a nurse accused of killing her husband.

The weekly sale at the auction barn constructed by the late veteran, Elzie Havrum, went on as scheduled.

None of the Havrums was willing to comment on the ruling, but a family statement released by attorneys John Kurtz and Claudio Molteini said they were grateful for their day in court.

"We thank everybody who has supported us and stood by us all of these years," the statement said. "Most of all, we thank God for the life of Elzie

Havrum, our husband, our father, our grandfather. We loved him so very much and we miss him so very much."

Helen Havrum was surrounded in the courtroom by family members representing three generations of her and her husband's progeny. She and many others burst into tears as judge Nanette Laughrey read her ruling.

The defeat stung U.S. attorney Stephen Hill, who insisted he does not believe, as Laughrey said she did,

that nurse Richard Williams killed patients. As for the negligence and danger to patients that Laughrey cited, Hill said hospital officials "not only did not know, but it did not exist."

Gordon Christensen, the VA research chief who has been the chief whistleblower in the case, and Eddie Adelstein, the hospital's

"It is actually a very sad day. It is a sad day for the Havrum family because it makes what they suspected and what they feared very real."

**— Gordon Christensen
Truman Memorial
research chief**

pathologist, viewed the victory for Helen Havrum as personal vindication. Christensen accused the hospital of attempting to cover up the deaths after he did a statistical study that exposed the danger posed by Williams. Christensen urged a criminal investigation, but that was blocked by hospital director J.L. Kurzejeski.

"It is actually a very sad day," Christensen said. "It is a sad day for the Havrum family because it makes what they suspected and what they feared very real."

Christensen praised Laughrey, congressional investigators and the media for keeping the case alive. He faulted the VA, the FBI and state investigators for failing to make a criminal case.

Adelstein said the case shows the need for structural changes at the VA to purge the system of officials who have sought to discount the allegations of murder.

"It was never a case of winning," he said.

"It was a case of the truth, and the truth was clear."

The only avenue for potential prosecution of Williams lies with Boone County prosecutor Kevin Crane, who could not be reached for comment.

Hospital spokesman Stephen Gaither released a statement that management and staff at the hospital are relieved the trial is over. "We are hopeful that all of the involved parties will be able to bring closure to this situation."

Gaither, who has been employed as the spokesman for the hospital for many years, would not offer an opinion about what he believes happened at the hospital in 1992.

1999

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**BOBBY & SHERRY THOMPSON &
ELAINE CUNNINGHAM**

Plaintiffs

v.

**CITY OF FONTANA, KANSAS
GEORGE WRIGHT
DARLINE CARTER and
GENNYFER KEES**

Defendants

Case No. 98-2491-KHV

**RACE DISCRIMINATION LAWSUIT REGARDING
ONLY BLACK RESIDENT IN THE CITY OF
FONTANA, KANSAS AND ONLY INTER-RACIAL
MARRIAGE IN THE TOWN**

Bobby and Sherry Thompson were subjected to racial discrimination in their hometown, up to and including the leaving of a noose in their driveway. Their lawsuit was against the City and three members of the City Council.



The eventual resolution included compensation to Mr. & Mrs. Thompson and also the placement of the plaque (shown on the following page) at a significant point on the town square with Mr. and Mrs. Thompson's names appearing along with members of the City Council, all on the same plaque.

**Placement Of The Following Plaque On The Town
Square Was Part Of The Settlement**

WE ALL HAVE A DREAM !

**This plaque is dedicated to
the brotherhood and sisterhood
of all men and women, boys and girls
--- in Fontana, Kansas ---
now and forever.**

Sponsors:

**Darline Carter
Elaine Cunningham
Paula Hambleton
Gennyfer Kees
Vollena Skeens**

**Bobby Thompson
Sherry Thompson
Jay Walters
George Wright**

**In the year of Our Lord the 1999th and of the Independence of
the United States the 223rd.**



The claims made by the widows and children of the three deceased men were as follows:

- (a) A structure which did not meet the basic flotation requirements of the United States Coast Guard for all craft less than 20 feet in length built or sold in the United States. These requirements specify that a swamped recreational boat must still float level with the bow and stern above the water so as to provide support for the persons on board.
- (b) The boat's relative tenderness or low stability as to rolling/healing.
- (c) The boat's low freeboard or height of the side above the water.
- (d) The structure of the boat which allows water to come over the side and swamp the boat when a majority of the occupants' weight is centered near or on either gunwale.

As a direct and proximate result of the defective design, manufacture, distribution, and/or sale of the said 14-foot Champion Runabout/Bass Outboard boat, plaintiffs' decedents suffered the injuries and deaths.

The damage claims by the widows and children were as follows:

- (a) mental anguish, suffering, bereavement, loss of society, companionship, comfort, protection, and other non-pecuniary loss.
- (b) loss of care and attention, reasonable funeral expenses, medical expenses, loss of services, advice, protection, and other components of pecuniary loss.

2001

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

LINDA HEARD, et al.

Plaintiffs

v.

BOARD OF COUNTY COMMISSIONERS
OF MIAMI COUNTY, KANSAS
CITY OF PAOLA, KANSAS
CITY OF OSAWATOMIE, Kansas, et al.

Defendants

Case No. 00-2173-JWL

**POLICE RAID WRONG HOME,
KILLING THE FATHER/ HUSBAND.
FAMILY AWARDED \$3.5 MILLION FOR
THE WRONGFUL DEATH.**



Heard: Family of dead man looking for peace, talking forgiveness

By Kevin Dillmore

Staff Writer

First came the shock. In a matter of seconds during a police raid on an Osawatomie home, a husband and father lay dead. Willie E. Heard Sr. was shot fatally in his bedroom one day before his 47th birthday in February 1999.

Then came the questions. Why did this happen? What led to police action at the Heard home? Those questions — and some of their answers — led to the filing of a

\$100 million lawsuit in federal court alleging Heard's wrongful death more than a year after the fatal gunshot.

Finally came acceptance and forgiveness, leading to an out-of-court settlement of the lawsuit. Two years had passed, and Heard's widow and children had moved on — emotionally and literally.

In March, the family agreed to settle their claim within the \$3.5 million insurance limits of Paola, Osawatomie and Miami County, whose law officers were involved in the raid.

The settlement grew from the

(Continued from Page 1A)

Heards' lack of ill will toward the officers involved in the tragic raid or toward their respective communities, said attorney John Kurtz, who has served as the family's spokesman during and after the process of litigation.

"Throughout this case, his (Willie Heard's) family has always kept in mind that he was a peace-loving man," Kurtz said. "Now, today, he would only want peace for the people and the public officials of this county and these cities."

Kurtz recently told the Miami County Republic that he thought the Heards had a strong case in their wrongful-death lawsuit, but chose to settle the matter for a number of reasons:

■ They believed that none of the officers participating in the raid harbored any bad intent or personal grudge against Willie Heard or the family.

That belief, Kurtz said, flowed from the depositions given by participating officers. Family members felt that officers' candor and regret over the death was genuine through statements sometimes accompanied with tears.

"The Heard survivors are grateful for the considerate treatment and statements of certain officials and officers," Kurtz said. "Those expressions have meant a great deal to them and helped them to decide early on that they did not want to take any money from the spouses and children of law enforcement officers on the three departments, or even from the public treasuries of the three jurisdictions."

■ They did not want to harm the cities or county in which they had lived for years.

While family members continue in their belief that what happened to Willie Heard is wrong, Kurtz said, their aim never was to bring harm to their community. Not long after the raid and

shooting, the Heards moved to Missouri, but they maintain contact with some area residents.

"The family has extremely strong feelings about the wrongness of what happened. The payment of the money involved indicates that the defendants had at least great concerns about it as well," Kurtz said. "Nevertheless, the family does not wish ill will for anyone in Osawatomie, Paola or Miami County. They love those places and the people who live there."

■ They did not want to burden officers personally with the

Mr. Heard will hopefully be heartened to know that changes have been made."

■ They did not want to permanently discourage current or future officers from doing their jobs in law enforcement.

Any penalty assessed against individual officers might discourage people from serving as city and county law enforcement officers, Kurtz said. That situation would be sure to affect the ability of those departments to enforce drug laws, something that family members see as an important function in society.

"His loved ones recognize the importance of effective law enforcement and also community support for law enforcement," Kurtz said. "They further recognize the importance of enforcing drug laws and the challenges involved in the enforcement of drug laws."

■ They believed that attorneys representing all parties shared a common goal of getting to the truth and the facts rather than bogging down in legal maneuvers.

Kurtz said he enjoyed a professional and pleasant working relationship with all attorneys, including Lee Tetwiler, Paola city attorney, and Mike Seck, an Overland Park attorney representing insurer Employers Mutual Casualty for Miami County and Paola. Osawatomie, also insured by Employers Mutual Casualty, was represented by a different attorney. The ease of communication throughout the proceeding as well as common appreciation of the Heard family's loss went a long way toward settling the matter, he said.

"The case was conducted in a very civil fashion by everyone involved on both sides of the case, including family members, city officials, city police officers and attorneys," he said. "All of these people seemed to understand the huge loss which the family suffered in Mr. Heard's death, and his family and their

counsel understood the resultant stress which both the death and the subsequent lawsuit had upon the public officials serving the county and both cities."

■ They have reached a point of emotional and spiritual closure with the events of February 1999 and want to move ahead with their lives.

Family members agreed in the settlement to walk away from any future right they might have to sue the governments or individuals connected to the case, Kurtz said. They are not looking for additional money nor for additional punishment of those who conducted the raid, he said. Instead, they are looking to forgive.

A glimpse of that forgiveness was seen this February, when dozens of Willie Heard's family and friends gathered at a memorial service in his name at an Osawatomie church. Heard's daughter Ashley spoke of her family's feelings after two years of living with the pain of their loss.

"If you have anger in your heart, you are not at peace with yourself," said Ashley Heard, starting off about 90 minutes of comments from those gathered at the church. "If you have peace, you can see the good things that can come from bad things."

Kurtz said recently that Ashley's tone of healing and understanding represented the family as a whole.

"Many hurtful words were once said by persons involved on all sides of the Willie Heard death situation," Kurtz said. "The time for all of that has passed and the time for reconciliation and healing has come."

"The family of Willie Heard Sr, urges that everyone join together now in working for community harmony, overall forgiveness and common dedication to building good lives for every single citizen who lives in Miami County, Kansas," he said.

The family of Willie Heard Sr. urges that everyone join together now in working for community harmony (and) overall forgiveness...the time for reconciliation and healing has come.

— John Kurtz
Heard family attorney

outcome of a lawsuit.

The Heard family understood that one potential outcome of a multi-million dollar award was the garnishing of officers' wages to cover any amount in excess of that covered by insurance, Kurtz said. Family members did not want to pursue a court award that would punish individual officers.

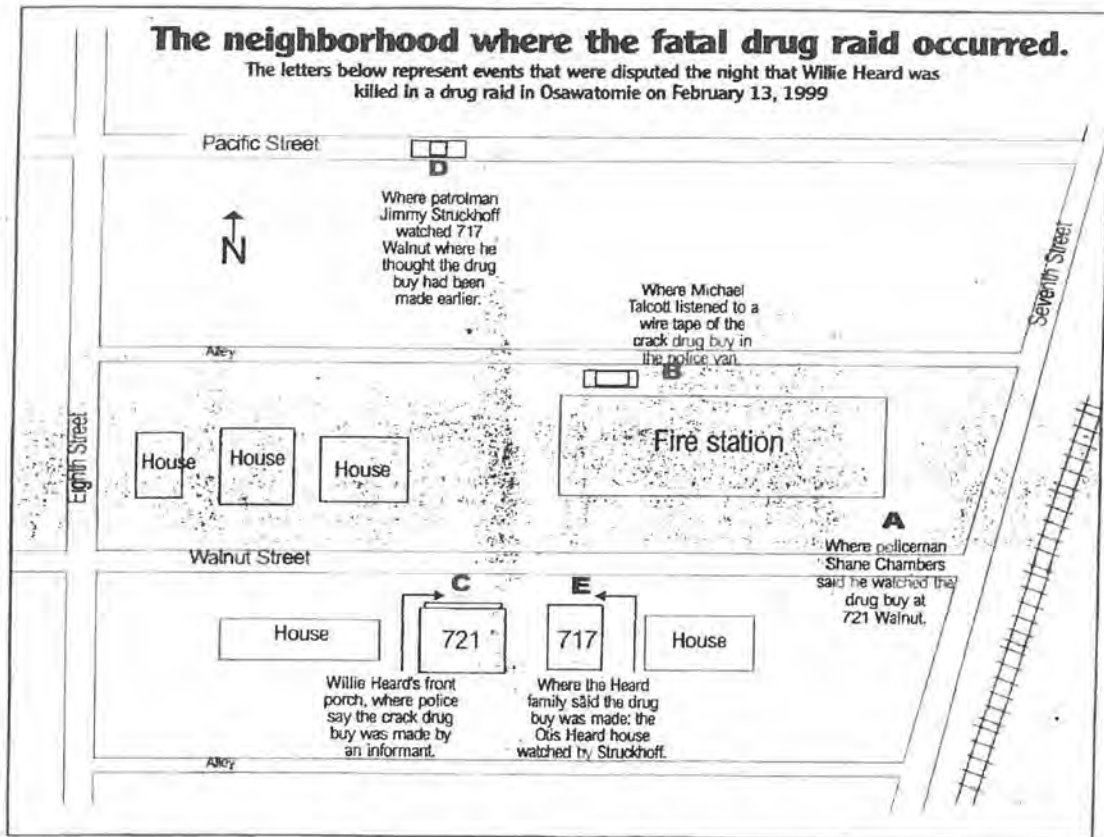
"The Heards understand that certain law enforcement practices in the county and the cities have been changed since the death of Willie Heard and because of the death of Willie Heard," Kurtz said. "Those particularly affected by the death of



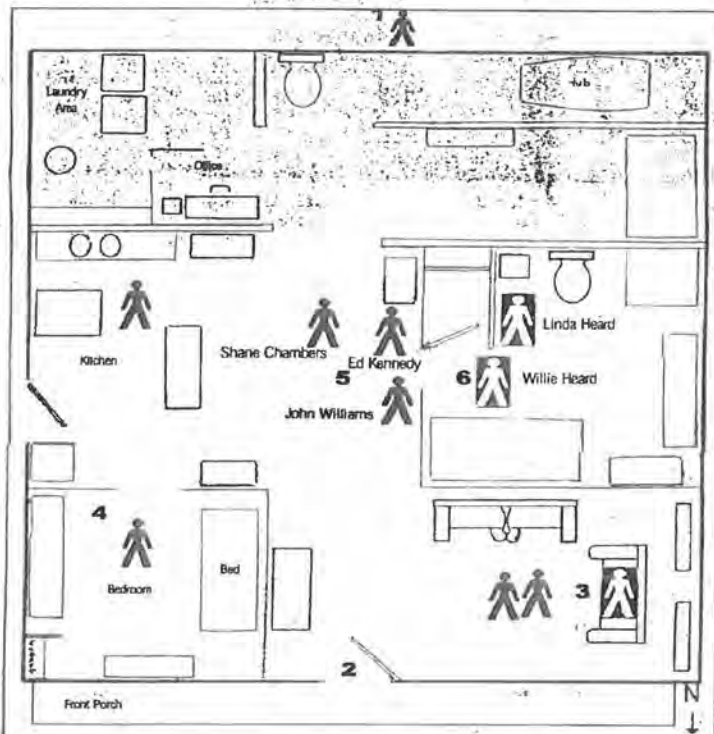
Left to right: WILLIE HEARD, ASHLEY HEARD, and LINDA HEARD

The neighborhood where the fatal drug raid occurred.

The letters below represent events that were disputed the night that Willie Heard was killed in a drug raid in Osawatomie on February 13, 1999



All Over in 10 Seconds



1. Tactical squad members surround the Willie Heard house about 1:30 a.m. A "flash-bang" charge is set off to disorient the occupants.

2. Several Paola police officers and county sheriff's deputies force open the front door and pour into the house.

3. Ashley Heard, daughter of Willie and Linda Heard, is awakened on the living room couch by officers.

4. Officers spread throughout the house looking for occupants.

5. Policeman Ed Kennedy pushes open the master bedroom door, covered by policeman John Williams. Policeman Shane Chambers backs them up.

6. Inside the bedroom, as his wife, Linda, hides behind a closet wall, Willie Heard raises a rifle toward the opening door. He is shot in the chest by Williams and collapses on the floor.



721 Walnut, Osawatomie

2002

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

**NANCY TELLIS,
LEMONTE TELLIS
MARQUITA TELLIS
MICHAELLE TELLIS
ERICKA TELLIS
ASHLEY DILLARD, a Minor
By Next Friend, Pamela Rambo
DARIEN WOODS, a Minor
By Next Friend, Gwendolyn Woods**

Plaintiffs

v.

_____ as defendant
ad litem for deceased wrongdoer
DERRICK THOMAS

Defendant

Case #00CV226658



Thomas

prudent manner.

Under the settlement approved by Judge J.D. Williamson, AAA Insurance Co. and Mount Vernon Fire Insurance will pay a total of \$1,275,000 to Tellis' six children and to his mother.

Tellis' mother, Nancy Tellis, lives in Kansas City, as do many of his children, who range from middle-school age to adults.

"All members of the Tellis family are pleased at the result...and that they can move on with their lives," said Tim Dollar, the plaintiff's attorney.

Defense attorney John Waldeck said the companies were glad the case was resolved.

Tellis was killed and Thomas paralyzed on Jan. 23, 2000, when Thomas' Suburban rolled over on an icy road. Both were thrown from the vehicle. Thomas died Feb. 8, 2000, in a Florida hospital of a pulmonary embolism.

The Tellis family has requested that the following information be shared with any other families in similar situations:

- Wrongful death actual damages judgments or settlements are not "income" and are not taxable as income.
- This could affect any recipient's application for government assistance.
- Wrongful death proceeds have been used at times to offset the need to use the caretaker's personal savings or retirement to provide care for surviving family members.

2003

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

**HTAIN and SUSAN WIN
AKL AL-NAIYAR
DAVID STEWART**

Plaintiffs

**EUGENE NIEKAMP, JR.
NANCY NIEKAMP, and
WILLIAM LEWIS**

Defendants

Case No. CV98-020567

THE KANSAS CITY STAR

EARLY METROPOLITAN EDITION ★

12-7-97 KC Star p. A-1

Only memories remain



DAVID PULLIAM/The Star

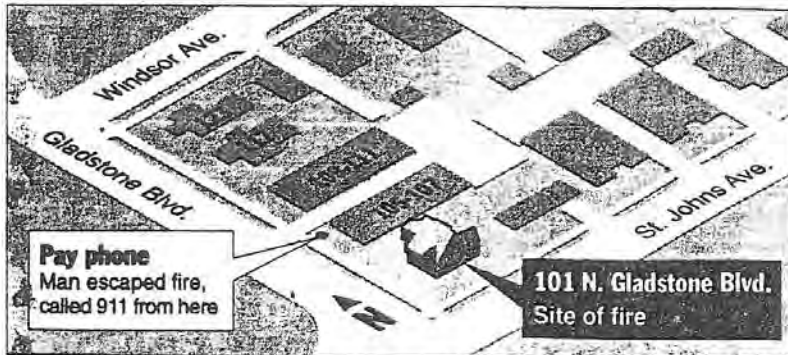
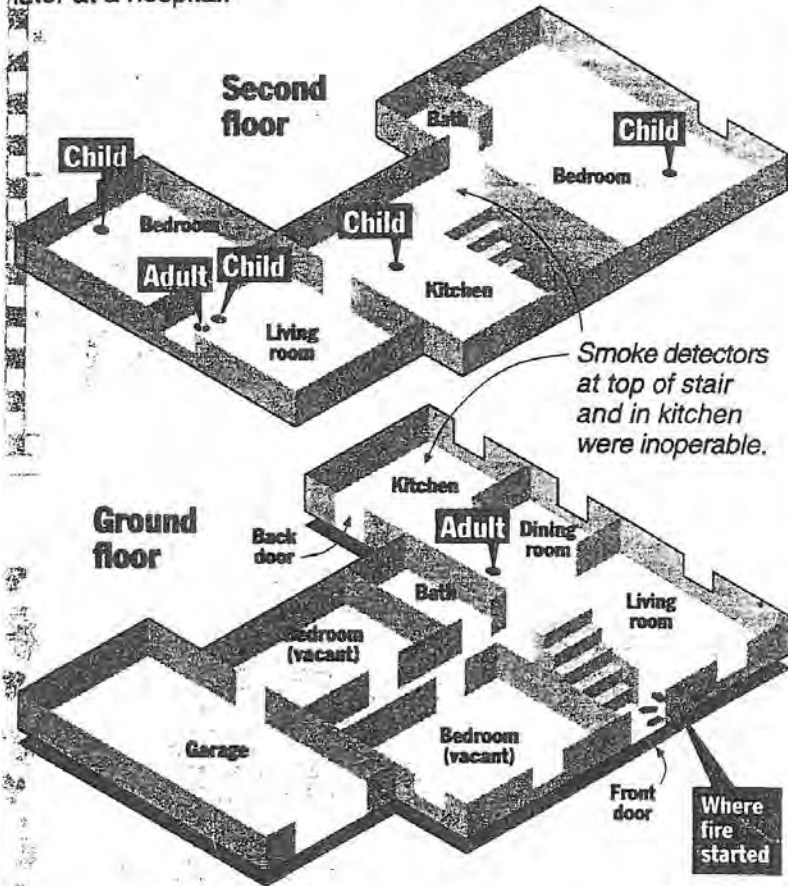
In Friday morning's fatal fire at Gladstone Boulevard and St. John Avenue in the Northeast area, Htain and Susan Win of Lee's Summit lost both of their daughters and all four of their grandchildren. Thursday evening, before the fire, Susan Win

had finished the family's annual Christmas letter, in which she wrote of her four grandchildren and that the family would be together for the holidays. Htain comforted Susan on Saturday as they talked about their family.

Fire took daughters, grandchildren

Scene of fatal fire

A fire Friday morning at 101 N. Gladstone Blvd. took the lives of seven persons. The bodies of four children and a woman were discovered upstairs. Another woman died after coming downstairs. A man who had come downstairs to alert other residents died later at a hospital.



Research by Barbara Hill-Meyer and Lance Thomas/ The Star

MARK BLACKWELL and NATHAN OLSON / The Star

■ *The Voice of Historic Northeast Since 1932*

the northeast news

Litigation Filed as Result of Deadly Blaze

■ Worst house fire in history of Kansas City ended the lives of seven.

■ Michael Bushnell

On Friday, December 5, 1997, Htain & Susan Win of Lee's Summit were looking forward to a visit from their grand children who lived in

the northeast news

up front

the Historic Northeast section of Kansas City. Unfortunately, when the telephone rang, it was not the cheery voice of Alana Ray or Nicholas Stewart. The voice belonged to a Kansas City Missouri Fire Department battalion chief with the sad news that Win's daughters, four grandchildren, and a family friend had perished in the worst house fire in Kansas City history. From then on, Htain & Susan Win's life would never be the same.

Earlier this week in Jackson County Circuit Court, a petition for wrongful death was filed by Hubbard, Kurtz, Taylor & Maloney, L L P, attorneys retained by plaintiffs, Htain and Susan Win, legal parents of Tracey Gail Stewart and Lydia Win Ray, and grand parents of Alana Ray, all of

whom perished in the fire. Other plaintiffs include Akil Al-Naiyar, a brother of one of the deceased, and David Stewart, husband of Tracey Stewart, and father of Alicia, Nicholas and Sebastian Stewart.

The suit alleges that the owners of the house, Eugene and Nancy Niekamp, along with Bill Lewis, had "control" of the property, and "failed to provide a reasonably safe premises" in a number of areas including "failing to provide an operable fire warning system of smoke detectors."

Eugene & Nancy Niekamp purchased the home at 101 North Gladstone in June of 1991, and occupied it until their separation early in 1997. Presently they are living in different areas of Central and Southern Missouri. The house was vacant for a short period of time, but according to the suit, and confirmed by neighbors in the area, the property was managed for the Niekamps by Bill Lewis of Lone Jack, Missouri.

Lewis, who also owns buildings at 105-111 North Gladstone Blvd., was cited by



city fire inspectors in October, 1977, two months prior to the fatal fire. Both buildings were closed immediately pending major repairs to a number of vital systems, including smoke detectors in common areas,

and fixing a pipe which was spilling raw sewage into one of the basements. Following this closure, Lewis allegedly moved a number of tenants to the house at 101 North Gladstone, apparently illegally converting it to a multi-family house without any city knowledge or standard issuing of permits. Lewis, who has a long history

of experience with rental properties in Northeast, was heard by neighbors to say the day after the fire that he had "nothing to do with 'that' house."

The suit, in accordance with Missouri law, seeks an unspecified amount of damages, and has been referred to the insurance carrier of record, Allied Mutual Insurance Co.

Case settled
for
insurance
policy limits

2004

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI

PATRICIA SWOPE)

RONALD SWOPE)

Plaintiffs)

v.)

TODD JOHNSON)

REVONNA NUTT)

Defendants)

Case No. CV1018917CC

**Wrongful Death of Daughter.
Murdered Woman's Parents Awarded \$30 Million**



**Beautiful Brandy
26 years old
Married for 26 months
Stabbed 26 times**

VS VERDICTS & SETTLEMENTS

Parents Sue Son-In-Law For Wrongful Death He Was Acquitted In Murder Trial

\$30 Million Verdict

The parents of a woman who was murdered in 1998 at the age of 26 sued her husband for wrongful death.

Brandy Swope married Todd Johnson in October 1996. On Dec. 19, 1998, Brandy was stabbed to death in her Kansas City, North home. Johnson called police and reported that she committed suicide. Responding officers found a 13-inch knife under Brandy's body, which had 26 separate stab wounds.

Johnson later confessed to killing Brandy in a six-page statement. But while he was in jail, he received a letter stating that someone else had commit-

ted the murder.

Johnson recanted the confession and was tried for murder in December 2001. At trial Johnson presented a "fatigue" expert who explained why he gave the false confession. In addition, another expert testified that the letter Johnson had received in jail was written by the person who actually committed the murder. Johnson contended that the murder was committed by his girlfriend, Revonna Nutt, with whom he had sex on the night Brandy was killed.

The jury acquitted Johnson after a six-day trial.

In December 2001 Brandy's parents

filed a wrongful death suit, naming Johnson and Nutt as defendants. After a week-long trial, a unanimous jury returned a \$30 million verdict against Johnson, including \$15 million in actual damages and \$15 million in punitives. The jury found in favor of Nutt.

Type of Action: Wrongful death

Type of Injuries: Death

Court/Case No./Date: Clay County Circuit Court/CV101-8917CC/May 21, 2004

Caption: Swope, et al. v. Johnson, et al.

Judge, Jury or ADR: Jury

Name of Judge: Larry Harman

Special Damages: None

Verdict or Settlement: \$30 million verdict

Allocation of Fault: 100 percent to defendant Johnson

Last Offer: \$200 per month for 50 months, \$35,000 life insurance policy

Last Demand: \$200 per month for life, \$35,000 life insurance policy

Attorney for Plaintiff: John Kurtz, Kansas City

Insurance Carrier: Not disclosed

Plaintiffs' Experts: Frank Booth, Kansas City (crime scene analyst)

Defendants' Experts: None



Brandy's parents Ron & Patricia Swope after unanimous jury verdict at Clay County Courthouse, with their lawyer

2005

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

MARSHA GOOD and)
BILLY G. GOOD, JR.)
 Plaintiffs)
 v.)
WILLIAM J. COX)
 Defendant)

Case No. 02CV222909
Division 13

Parents Awarded \$15M In Fatal DWI Collision



Jeff Good was 17 when the auto accident took his life.



Jeff Good's car was crushed in the accident.

MISSOURI LAWYERS WEEKLY

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Parents Awarded \$15M In Fatal DWI Collision

Defendant Was In Prison For Manslaughter

BY GERI L. DREILING

The parents of a 17-year-old who was killed by a drunk driver have won \$15 million in their Jackson County lawsuit.

Jeff Good was on Highway 210 about 30 miles northwest of Kansas City when

VS Verdicts & Settlements PLUS

his car was struck head-on by William Cox. Witnesses said Cox was driving

erratically before the collision.

Cox's blood alcohol content was .218 percent after the accident. He was later convicted of involuntary manslaughter and is now serving a five-year sentence.

Good's parents filed a civil lawsuit, said their attorney, John Kurtz, because they thought Cox's sentence was too lenient.

According to Kurtz, the litigation raised a significant legal issue — whether the defense could present evidence of mitigating circumstances under the wrongful death statute even though the plaintiffs did not argue aggravating circumstances.

"I entered this trial thinking if I am not seeking aggravating circumstances damages, which is essentially seeking the wrongful death version of punitive damages, [the defense] cannot adduce mitigating circumstances," Kurtz said.

But a 1991 Missouri Supreme Court case, *Hagen v. Celotex Corporation*, cut against his argument and so the trial court allowed the defense to tell the jury that Cox was a Vietnam veteran who had been diagnosed with post-traumatic



JOHN KURTZ
Mitigating circumstances at issue

stress disorder, a condition that drove him to drink.

The verdict in *Good v. Cox* came on Jan. 20. Cox's attorney, Robert Gould of Kansas City, declined to comment for this story.

Erratic Driving

On June 3, 2002, Jeff Good was driving a 1991 Pontiac Grand Am west on Highway 210 near the small town of Orrick. His friend Kendall Turner was riding in the passenger seat.

■ continued on PAGE 18

■ continued from PAGE 1

At the same time, Cox, a former bus driver for the Kansas City Area Transportation Authority, was approaching from the opposite direction. According to Kurtz, several witnesses said Cox had been driving erratically for about 15 miles before he encountered Good's car. Several 911 calls were placed to law enforcement authorities, Kurtz said.

As the cars neared a railroad bridge, Cox crossed the centerline, hitting Good's car almost head-on.

"Jeff Good's body was propelled backward and his feet were toward the steering wheel," said Kurtz.

Turner, the passenger, was able to get out of the car by crawling out the driver's side.

Emergency crews couldn't immediately remove Good — he had to be cut out of the vehicle. He was airlifted to Liberty Hospital, where he died.

According to Kurtz, a trooper approached Cox and asked how much he'd had to drink, to which Cox replied, "F--- you." Cox's blood-alcohol level was .218.

Kurtz was retained to represent Jeff Good's parents, Marsha and Billy G. Good Jr. and Turner, whose case was severed and is still pending.

Following the wreck, Cox was charged criminally. He received a five-year sentence for involuntary manslaughter and a three-year sentence for assault relating to Turner's injuries. The sentences ran concurrently. The parole date for the 57-year-old is set for 2006.

Kurtz said that during the criminal case, claims that Cox had no prior DUIs "became a big issue" and that it helped explain the light sentence. And Cox testified in his civil case that he didn't have any DUIs.

But during the civil case, Kurtz obtained Cox's medical records from the

Veterans Administration Hospital. And they helped the plaintiffs.

"In those medical records, it indicates a history of arrests and incarcerations of generally less than two weeks in duration, including a prior DUI," said Kurtz. "The short answer is that it appears he had one prior DUI and that issue became somewhat significant in our case in terms of impeaching his testimony," Kurtz said.

Legal Twist

Although the wrongful death petition filed in the case asked for an award of aggravating circumstances damages, before trial Kurtz changed his mind and decided to limit his request to actual damages.

Kurtz said he understood that aggravating circumstances damages are the wrongful death version of punitive dam-

ages — and "punitives make it more complex to try the case, it makes it more subject to appeal and half of it belongs to the state. And there's the common feeling that a jury will put their emotion into whatever damage line you give them."

Another reason for dropping the claim, Kurtz acknowledged, was his "impression" that the defense would not be allowed to put on mitigating circumstances evidence if there were no aggravating circumstances presented.

But §537.090 RSMo provides: "The mitigating or aggravating circumstances attending the death may be considered by the trier of the facts..." And *Hagen* interpreted the statute to allow mitigating circumstances even if aggravating circumstances are not introduced by the plaintiff.

Judge Blackmar wrote in *Hagen*: "The plaintiffs exercised their option under MAI 5.01 of not requesting an instruc-

tion on aggravating circumstances. This tactical decision does not preclude the defendants from requesting an instruction on mitigation."

In this case, Kurtz said Cox introduced evidence that he was a marine in the Vietnam War who had been awarded two Purple Hearts. Further, Cox had been diagnosed as suffering from PTSD as a result of his combat experiences.

Kurtz acknowledged that there was "the potential for him to be a sympathetic" figure for the jury. And Kurtz said he was unsure how jurors would react to Cox's videotaped testimony in prison — Cox did not appear at trial.

But Kurtz said a key factor for the jury was Cox's answer when asked if there was anything he wanted to tell the Good family: "I wish it didn't happen, I guess."

Kurtz said, "I felt on the videotape it had the potential to cause the jury to say that is a sympathetic looking guy, he did serve his country. But I think that the absence of a significant amount of remorse and contrition was significant in the end."

Damages

Kurtz argued before the jury that the parents were entitled to anywhere between \$1 million and \$5 million for each of the eight statutory damage categories: loss of comfort, companionship, counsel, instruction, training, services, support and guidance.

After deliberating for 45 minutes, the jury came back with a unanimous verdict: \$15 million for the Good family.

Kurtz acknowledged that with a \$50,000 insurance policy limit, it was an open question as to whether the plaintiffs will collect the entire judgment. "That remains to be seen because we have in front of us, potentially, a motion for new trial, appeal, and thereafter possible further litigation," he said.

MLW

2006

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

**STEVEN KEM DAVIS and
DEBBIE DAVIS**

Plaintiffs

v.

**DR. MICHAEL L. COPELAND
and
NORTHEASTERN NEUROLOGICAL
SURGERY, P.C.**

Defendants

Case No. 01CV228656

Div. 11

**MEDICAL MALPRACTICE CASE REGARDING
QUADRAPLEGIA**

Mr. Kim Davis was involved in an automobile collision and suffered a fracture. The allegations of medical negligence against the neurosurgeon were as follows:

- (a) Failing to timely and appropriately obtain adequate communication with specialty consultants before surgery.
- (b) Performing a procedure which defendant Copeland was not qualified to perform.
- (c) Failing to warn plaintiff Mr. Davis of the dangers involved with the surgery to be performed.



- (d) Failing to obtain informed consent regarding the dangers involved with the surgery to be performed.
- (e) Failing to exercise proper care during the surgical procedure so as to avoid any impact or damage to the spinal cord and/or the nervous system.
- (f) Failing to perform adequate supervision, evaluation and monitoring during the surgical process.
- (g) Failing to provide and/or enforce adequate standards, rules, regulations, protocols and/or safeguards to insure a complete, accurate and timely evaluation of the patient.
- (h) Failing to use appropriate and functional equipment during the surgical process.
- (i) Failing to prevent the guide-wire/K-wire's penetration of the spinal cord.
- (j) Failing to place the guide-wire/K-wire correctly in that the original placement through the cortex of the odontoid was inappropriate and thus allowed the penetration of the spinal cord.
- (k) Failing to use the fluoroscopy equipment in the operating room in an appropriate fashion to assure that the guide wire/K-wire would not penetrate the spinal cord.
- (l) Failing to consider fully the possibility that non-operative management would have been appropriate and to have proceeded accordingly.

The damages alleged by Mr. and Mrs. Davis were as follows:

As a direct result of defendants' negligence, plaintiff Mr. Davis sustained the following severe, permanent and progressive damages:

- (a) devastating neurological deficits, both permanent and temporary, including quadriplegia, weakness, and sensory deficits;
- (b) development of a permanent disability as to normal ambulation;
- (c) severe physical pain;
- (d) severe emotional and mental anguish;
- (e) past, present and future expenses for medical care, medication, hospitalization and surgery;
- (f) humiliation and embarrassment;
- (g) impairment of past, present and future enjoyment of life, play and rest;
- (h) loss of time and wages from employment and loss of power and ability to work and labor.

As a direct and proximate result of defendants' negligence, plaintiff Debbie Davis has been deprived of:

- (a) her husband's services, society, association, companionship.
- (b) Her enjoyment thereof has and will in the future be lessened, impaired, and diminished.
- (c) She has had to provide care for plaintiff Mr. Davis on a daily basis.
- (d) She has also lost income as a result.

Short Walk; Miles of Miracles

It was something she never dreamed could come true. He never gave up trying to fulfill that dream.

In 2000, Kem Davis suffered serious injuries in a car accident. Following a surgery at a Kansas City metro hospital to place a screw in his vertebrae, Davis was left paralyzed from the waist down as well as with little movement in his arms and hands. As soon as possible, Davis began rehabilitation work at a variety of medical facilities. The prognosis was grim.

"Kem suffered a laceration to his spinal cord, but it wasn't completely severed," said Ray County Memorial Hospital Rehabilitation Director Landon Hawkins, RPT, who began working with Davis in 2002. "In an injury such as Kem's, the body usually responds to rehabilitation within the first year if it's going to respond at all. During his first evaluation, I was pretty certain that his body had regained whatever movement it was going to and I told him that he probably wouldn't progress any further."

Regardless of the naysayers, Davis worked diligently to regain the use of his arms and hands.

"I'm a fighter. I want to walk," said Davis.

By 2004, Davis was making trips three times per week to the Ray County Memorial Hospital's occupational therapy department to work on advancements in his

wheelchair and other methods to facilitate h a n d i c a p p e d life. With the increased functionality of his hands, the hospital professionals began to help him use the new h a n d c o n t r o l s on his wheelchair.

During one regular visit by Davis to the Rehab Department in May of 2004, Davis was moving from his chair to the mat and Hawkins saw one of his knees move on its own.

"My mouth just dropped," said Hawkins. "I knew if he was successfully transmitting a signal from his brain to his legs, there still might be hope."

Hawkins began conducting regular physical therapy sessions with



Davis again at the hospital.

"With two people on each side and one behind, we were moving his shoes by the shoe strings," said Hawkins. "Then it happened. He actually took his first step on his own. It was June 9th. There was excitement like I've never known in the hospital that day."

See "Miracles" cont. on page 3

13 Caring Connections

"Miracles," continued from cover

The success triggered Davis and his family to step up his rehabilitation efforts once again. In late 2004, Davis spent time at the Rusk Rehabilitation Center in Columbia, Missouri, to see if he could make additional progress. Rusk has achieved a reputation throughout the Midwest as one of the foremost centers for rehabilitation and physical medicine.

"I worked with a specialist there and they had special robotic machines that I could hook up to that would move my feet," said Davis. "While I didn't make a ton of additional progress there, the specialist validated the treatment that Landon was doing at the local hospital."

During the winter of 2005, Hawkins trained Davis' family members to help him keep trying to walk. Davis' wife of 24 years, Debbie, and his three daughters, Tara, Becky, and Megan, took turns helping Davis try to walk and performing the exercises Hawkins had given them.

"At this stage, it's about training those muscles to perform," said Hawkins. "He has to learn to better control what he has. It takes

a lot of focus and concentration and repetition. That's why his home walks are so important."

Shortly after that, Davis was discharged from hospital rehab because additional progress was not being made.

"The insurance companies mandate that if we can't show any additional progress or change in condition, we have to discontinue rehabilitation," explained Hawkins.

But the family kept hopes high as they continued to work with Davis, even though the carpet and narrow doorways in the house made it difficult. According to Debbie, Tara, now 22, and her then fiancé Justin, were regular visitors on their "turn" to work with Tara's dad.

"They were so faithful in their trips to see Kem and walk with him," said Debbie Davis.

In the spring of 2006, the Davis' were able to remodel much of their home to help accommodate Davis' wheelchair and his walking training. Because of these new changes, Hawkins was able to begin working with Davis once again.

"With this new potential to perform, I was allowed to work with Kem again," said Hawkins. "And with the new structure of his house and advancements in some special shoes and equipment we procured, he started to make additional improvements, a few steps at a time."

Hawkins said that by June this year, Davis was walking with his help up to 40 feet.

"Everything works one way," said Davis. "I can kick my feet out but not pull back in."

His walking spree was perfectly timed. In July, Tara and



(Above and below left) A strong-willed Kem Davis (center) secretly practices the trip down the aisle for his daughter's wedding with the help of Ray-Carroll Memorial Hospital Rehab Director Landon Hawkins, RPT, (on his right) and his wife Debbie Davis (on his left).

(Below) Hawkins equips Davis with special braces and shoes to ease his ability to move his own legs to walk.

Justin were married.

"She wanted so badly for her father to escort her down the aisle," said Debbie Davis. "She was trying to think of all kinds of ways that Kem could go with her in his wheelchair she could ride on his lap, or he could just navigate next to her."

With every request, Davis came up with an excuse why it wouldn't work, all the while secretly planning, with Hawkins' help, to give his daughter the surprise of her life. Tara could not have known that her father was secretly meeting Hawkins at the church and practicing his walk down the aisle.

In fact, it wasn't until the wedding



rehearsal on the Friday night prior to the wedding that the surprise unfolded.



See "Miracles" cont. on page 5

“Miracles”, continued from page 3

“We didn't want to wait until the wedding day to drop this on her,” said Hawkins. “We knew that there wouldn't be a dry eye in the place when Kem was helped to his feet and we didn't want to ruin the bride's makeup on her wedding day!”

Sure enough, the sight of her father rising to his feet brought tears to Tara's eyes and shock to the wedding party. The next day, the happy surprise spread to all of the wedding guests in the crowded church when Davis, with the help of Hawkins, rose to his feet and successfully escorted his daughter down the aisle.

“In practice, the rough carpet at the church limited Kem's walking distance to 15-20 feet.” said Hawkins. “But on the wedding day, I witnessed what Kem's determination and love for his daughter could do, as he walked 60 feet down the entire aisle.”

Davis credits his strong will and those that believed in him for his continued progress.

“I had some therapists who believed in me and the support of my family,” said Davis. “I always felt like I could do it and I'm thankful that everyone helped me keep going.”

Davis said the hospital located in his hometown was really convenient and that all of the hospital employees and rehab staff have been great to work with.

“All of the therapists have been real nice. I especially liked the whistle they gave me to use to call them,” he jokes.

“It's been really great to work with someone who works so hard,” said Hawkins of his time with Davis. “I may have patients who have ten times more potential for success than Kem but don't put forth the effort. Kem has always given 110 percent.”

Although the big day has passed, Davis continues to work toward the day he will be able to walk on his own.

“I'm never going to tell him he can't do anything ever again!” said Hawkins.

2007

IN THE CIRCUIT COURT OF JACKSON COUNTY MISSOURI

DEBBIE MESZAROS

Plaintiff

v.

K.C.P.I. SECURITY, INC.

and

K.C.P.I. SECURITY, L.L.C.

and

VINCENT FLORES, #1126235

Defendants

Case No. 0516-CV-12683

WRONGFUL DEATH OF BROTHER

Defendant Flores shot and killed Gerald Meszaros at a time when plaintiff Debbie Meszaros (Gerald's sister) was with her brother in his car. The bullet(s) came very close to her. Her brother died in the car, sitting right beside her on that fateful night.



Jerry dearly loved his severely disabled sister Debbie. When he died, she was right beside him.



DEFENDANT FLORES' CAR IS SHOWN BELOW



**Take Your Ex Out Tonight
(One Bullet Oughtta Do It)**

**GUN CONTROL
means using
BOTH HANDS**

2008

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

DIANE MCINTOSH,
PAMELA JORDAN and
WILLIAM JORDAN,
LAYLA MCKENZE SIMMONS, by her Next Friend
MCKAYLA MARIE SIMMONS, by her Next Friend
SAHIZER DAVIS,
VANESSA JOHNSON,

Case No. 0516-CV05978
Division No. 14

Plaintiffs

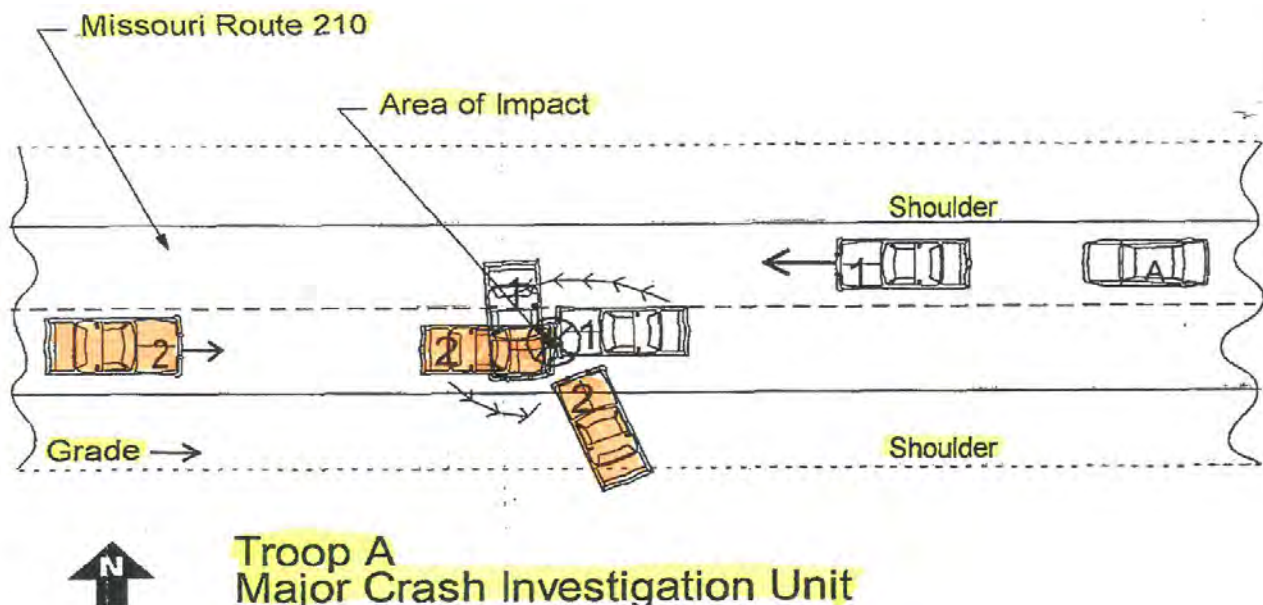
v.

CHARTER INDEMNITY COMPANY,
ESTATE OF LINCOLN CARTY
DUKE'S STEAK HOUSE & SPORTS BAR, LLC
ROBERT C. ROWE

Defendants

DRUNK DRIVING DEATHS LEAD TO INSURANCE PAYMENTS AND SALE OF BAR

Several lawyers joined together in suing an insurer, the drunk driver's estate, the bar, and the bar's owner on behalf of the 3 grieving families and the one injured survivor.



Claims made on behalf of the families who had lost loved ones in this tragic collision included a claim against Duke's Steakhouse & Sports Bar where alcohol had been served to Lincoln Carty prior to the collision. Allegations against Duke's Steakhouse & Sports Bar were as follows:

- Prior to the above-described collision, Lincoln Carty was a business patron of defendant Dukes Bar.**
- Defendant Duke's Bar by and through its agents and employees and also defendant Rowe personally as well as by and through his agents and employees knowingly served intoxicating liquor to Lincoln Carty at a time when he was visibly intoxicated.**
- The actions and omissions of the agents and employees of defendants were all within the course and scope of their employment for defendants.**
- Defendant Rowe, as the owner and/or manager and/or as a bartender and server at Duke's Bar, is responsible for knowingly serving intoxicating liquor to Lincoln Carty for consumption at Duke's Bar at a time when he was visibly intoxicated.**

RICHMOND DAILY NEWS



Mark Simmons

Rest in Peace

Tabitha Jordan

Rest in Peace

Barak Acar

Rest in Peace

On March 13, 2004, our three children were killed instantly at 10:20 p.m. on Highway 210 when a drunk driver crossed the center line and crashed into them head-on. We hold them in our hearts forever, but today (and every year on this date) we reach out to everyone in the hope that you can be spared the heartaches we suffered. The United States has almost 40,000 deaths per year from automobile accidents, and about 40 % are due to drunk driving.

To Alcohol Providers: For bars, restaurant owners, and even individuals who serve alcohol, please work to be responsible and to save lives. Missouri law makes reference to stopping the service when a person is "visibly intoxicated." We parents urge you to stop sooner than that and to raise the value of human life over profits. **You can make a difference.**

To Young People and Everyone Else: The driver who killed our children was himself only 24 years old, and we join his family for his loss. His blood alcohol content was .182. Please Please Please do NOT drink and drive. Your lives and the lives of the other people on the roads are too precious to be lost because of alcohol. **You can make a difference.**

FROM OUR ENDLESS SORROW EMERGES OUR ENDLESS HOPE THAT THIS MESSAGE WILL HELP PEOPLE OF GOOD WILL MAKE THE RIGHT CHOICES.

Diane McIntosh
Mother of Mark Simmons

Pamela and William Jordan
Parents of Tabitha Jordan

Sahizer Davis
Mother of Barak Acar

2009

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

**DONNA M. KAHLE, AS EXECUTRIX OF THE
ESTATE OF GALE DEAN KAHLE, AND DONNA M.
KAHLE, CHRISTOPHER KAHLE AND TODD
KAHLE, HEIRS AT LAW OF GALE DEAN KAHLE**

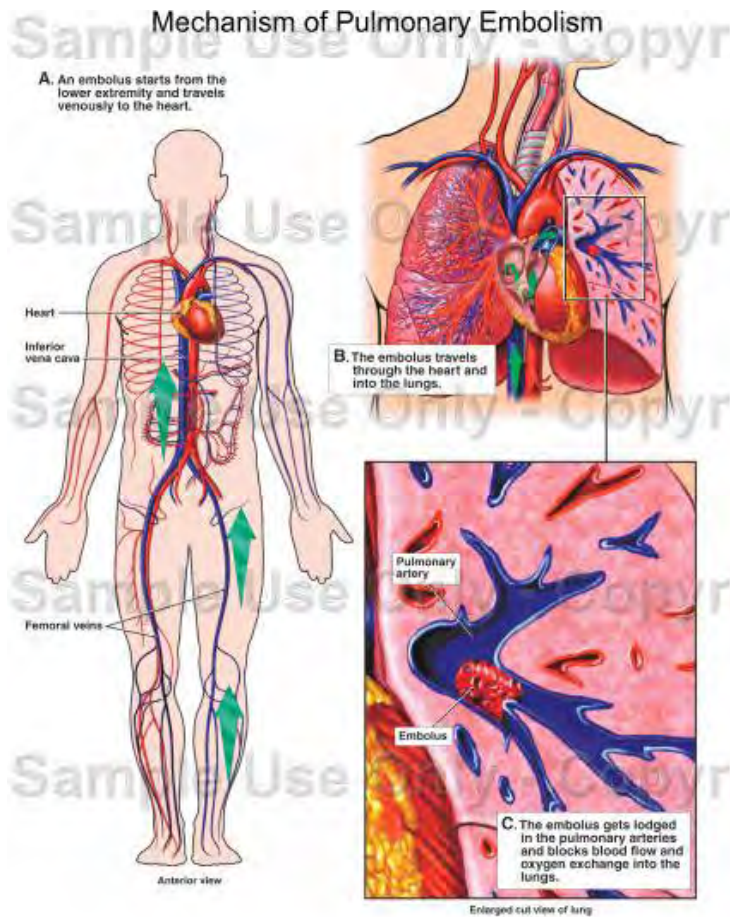
Case No. 2007-CV-001817

Plaintiffs

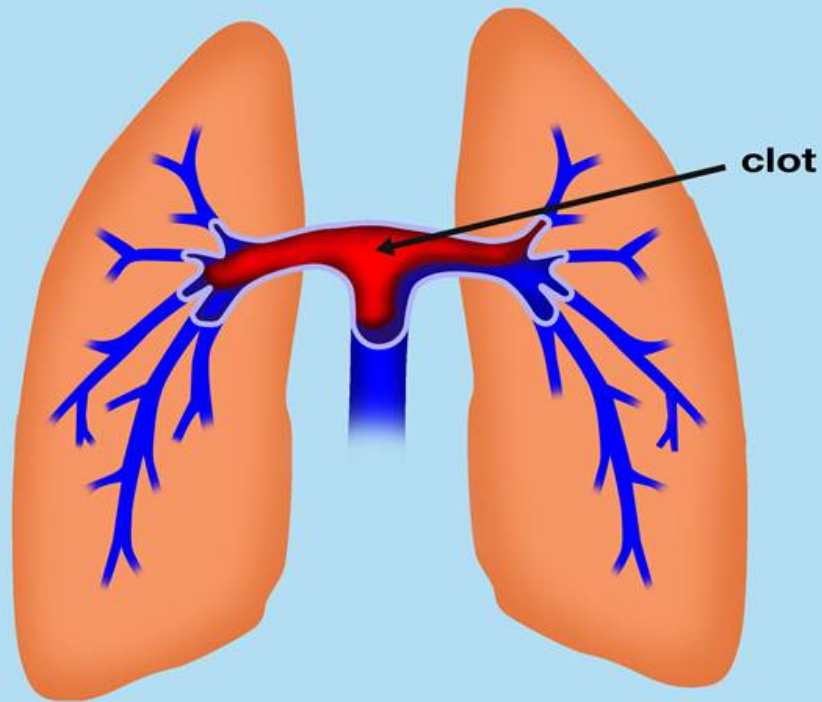
**v.
ROBERT L. PETERSON, M.D.**

Defendant

There was a massive pulmonary embolus. The standard of care was breached when Mr. Kahle returned to the emergency room and the emergency room physician failed to diagnose and treat him. Wrongful death, medical malpractice case.



Massive Pulmonary Embolism



HERE IS WHAT TYPICALLY HAPPENS IN THE PULMONARY EMBOLUS EXPERIENCE:

- Shortness of breath that may occur suddenly.
- Sudden, sharp [chest pain](#) that may become worse with deep breathing or [coughing](#).
- Rapid [heart rate](#).
- Rapid breathing.
- [Sweating](#).
- [Anxiety](#).
- [Coughing up blood](#) or pink, foamy mucus.
- [Fainting](#).
- [Heart palpitations](#).
- Signs of [shock](#).

AND, OF COURSE, IT CAN MEAN DEATH.

2010

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

ANNETTE HOLZER

Plaintiff

v.

HONEYWELL INTERNATIONAL, INC.

GOODRICH CORPORATION

DUKES, INC.

ROURKE AVIATION, INC.

FOSTER'S PROPELLER SERVICE, INC.

AIRCRAFT ACCESSORIES

OF OKLAHOMA, INC

RICHARD M ABERNATHY

KIM LEE

Defendants

Case No: 0716-CV00803

Division No.: 16

**WRONGFUL DEATH AGAINST AIRPLANE
MANUFACTURER & OTHERS**

KEVIN HOLZER

Husband and Father

September 17, 1954 – January 21, 2005



Plane crashes in Kansas City suburb; five killed

OVERLAND PARK, Kan. (AP) — A twin-engine plane was reduced to "bits and pieces" after it crashed into a home in a Kansas City suburb, killing all five people on board and leaving a fiery trail of destruction in the well-to-do neighborhood.



The plane clipped a street lamp and several trees as it broke up shortly after takeoff. Luckily, no one on the ground was hurt.

AP

The plane, which went down shortly after takeoff Friday, clipped a street lamp and several trees as it broke up, slamming into two vehicles and coming to rest at the foundation of a home. No one on the ground was hurt. The crash spread aviation fuel and wreckage across several blocks. The back porch of the home — owned by the Baltimore Orioles pitcher Jason Grimsley — was extensively damaged, and a truck and a sport utility vehicle were destroyed. Aside from its small windows and some numerical markings, the Cessna 421C Golden Eagle III "was very hard to identify to be an airplane," said Overland Park Fire Chief Dennis Meyers. "It was totally destroyed," Meyers said. "It was just all bits and pieces." Two of the victims had been on their way to the Bahamas for a vacation given by members of their congregation at Parkway Baptist Church, WDAF-TV reported Friday. The victims, Armour Stephenson, 49, and Shirley Stephenson, 46, were pastors at the church. The crash came after the plane left Johnson County Executive Airport. The airport's control tower had handed the plane over to regional air traffic controllers, who never heard from the pilot, said Bob Perry, the county airport commission's director of aviation. "That's when they knew there was something wrong," Perry said. Grimsley was not in the home at the time of the crash, but his wife, Dana, and 5-year-old daughter, Rayne, were in the home. Neither was hurt. "I heard it coming down," Dana Grimsley told The Kansas City Star. "I looked to my right and saw it come down. It was in a different room of the house, so I didn't see it hit. I ran upstairs from the basement with Rayne. We called 911 and ran out." Grimsley said it appeared that the pilot, identified as James L. Kingston, 60, tried desperately to avoid hitting anything as the plane went down. "From what I saw, at the last second you could see the pilot did everything he could to avoid the house," Grimsley told The Star. The city identified the other victims as Lewis Bradley Smith, 73, and Kevin W. Holzer, 50.

A particularly moving and memorable event during the course of the case was the deposition of Mrs. Annette Holzer, widow of Kevin Holzer. When asked about the time that something in particular had occurred, her answer was, "The summer before **WE** died." She did not realize the use of the plural pronoun "we." Later, she certainly was touched to realize what she had said.

Later insight was gained at the funeral of a fellow lawyer's mother where the priest said this:

"It is certainly true that...when someone dearly loved by us dies...part of us dies with them. BUT, it is very important to remember and know that, at the same time, part of them lives on in us."

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

ARMOUR D. STEPHENSON, III)
PATRICK G. STEPHENSON)
GIA A. STEPHENSON)
MICHAEL D. RAHN)
Plaintiffs)

v.)

Case No:0716-CV00817)

HONEYWELL INTERNATIONAL, INC.)
GOODRICH CORPORATION)
DUKES, INC.)
ROURKE AVIATION, INC)
FOSTER'S PROPELLER SERVICE, INC.)
AIRCRAFT ACCESSORIES)
OF OKLAHOMA, INC.)
RICHARD M ABERNATHY)
KIM LEE)
Defendants)

Division 17)

**WRONGFUL DEATH AGAINST AIRPLANE
MANUFACTURER & OTHERS**

Husband Father
Armour David Stephenson, Jr.
D.O.B. 11-05-1955

Wife Mother
Shirley Faye Stephenson
D.O.B. 04-29-1958

D.O.D. 01-21-2005



Armour Stephenson was the pastor of Parkway Baptist Church. He and his wife Shirley Stephenson were on the same plane as Kevin Holzer. They both died in the crash, leaving four living children.

Rev. Armour David Stephenson Jr.

Friday, January 28, 2005

Rev. Armour David Stephenson Jr., 49, of Lee's Summit, formerly of Marshall, died Friday, Jan. 21, 2005, in a plane crash.

Funeral services will be held at 11 a.m. Saturday, Jan. 29, at Church Triumphant World Overcomers in Kansas City. Friends may call from 9 to 11 a.m. Saturday at the church. Burial will be in XII Gates Memorial Gardens. Arrangements are under the direction of Duane E. Harvey Funeral Directors in Kansas City.

Born Nov. 5, 1955, in Marshall, he was the son of the late Armour David Sr. and Thelma Ann Stephenson. On June 4, 1981, he married Shirley Fae Gilmore, who also died in the plane crash. He was a 1973 graduate of Marshall High School and a graduate of Park College in Parkville, where he received a bachelor's degree in criminal justice and sociology. He worked as a juvenile detention officer for 22 years for the Jackson County Juvenile Court and for McCune Home for Boys and various schools, including the Raytown C-2 School District. He and his wife began working in ministry at The Immaculate Temple Church in Kansas City. Ordained as a deacon in March 1991, he became pastor of Parkway Baptist Church in Kansas City on March 16, 1995.

Survivors include four children, Michael D. Rahne, Armour David Stephenson III, Patrick Gene Stephenson and Gia Antoinette Stephenson; one sister, Ann White; five brothers, Anthony Stephenson, Rodney Stephenson, Troy E. Stephenson, Jewell L. Stephenson and David Spriggs; and one granddaughter.



“Mrs. Shirley Stephenson on the plane before take-off.”

2011

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

HOPE and GIFT NKANI

Plaintiffs

v.

CITY OF KANSAS CITY, MISSOURI

CHRISTOPHER H. DEPAUL

FATHER & SON MOVING & STORAGE

OF KANSAS CITY, MISSOURI, INC.

GEORGE BRENNAN

KANSAS CITY MISSOURI SCHOOL DISTRICT

SECURITAS SECURITY SERVICES USA, INC.

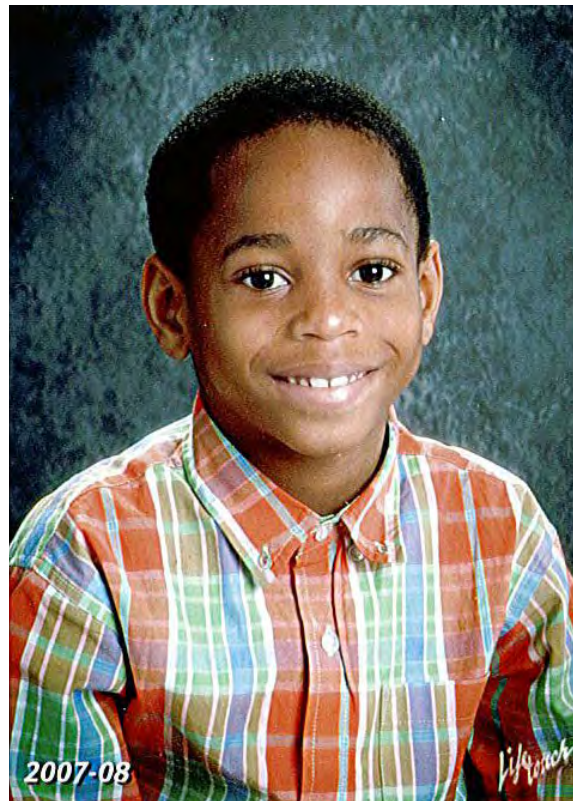
Defendants

Case No. 1016-CV08634

Division No. 1

DEATH OF SON AT AGE 7

**“Momo” was struck by a fire engine on Woodland Avenue
in Kansas City**



Obarimomoya Nkani
Grade School picture 2007-2008

Momo Nkani was killed while crossing Woodland Avenue. This tragic wrongful death case included all of the following things:

- **Failure of the Kansas City Fire Department to follow its own procedures for operation of a fire truck during an emergency run and for negligence in failing to prevent the child's death.**
- **Negligence of a moving van's driver in failing to move to the right and get out of the traveled roadway.**
- **Negligence of a nearby security person for leaving his post and not being present on a nearby street corner at the time of the death.**

KANSAS CITY, Mo. - The City Council of Kansas City has approved a \$280,000 settlement with the parents of a 7-year-old boy struck and killed by a city fire truck.

The city's settlement is in addition to a \$720,000 payment from the insurance company of a moving company that also was involved in the crash that claimed the life of Obarimomoya Nkani (known as Momo) on March 2, 2009.

The family's attorney says the family is relieved to have some closure.

"The family knows there is a first responder who cares deeply about what happened and a moving van driver that knows something bad happened," said attorney John Kurtz. "The family continues to work through the terrible loss of this child and is grateful for the support of so many people in the community."

The lawsuit alleged negligence on the part of the city, father and son moving and storage, the Kansas City School District and Securitas Security Service. The school district and security company were dismissed from the lawsuit, but the family says it is re-filing.

Obarimomoya was halfway home from first grade at Woodland Elementary School when he reportedly ran into the street and was hit by the oncoming fire truck at Ninth and Euclid.

The complaint alleged the driver failed to use the highest level of care, took a route through a school zone a 3:30 p.m. rather than an alternate route, and didn't keep a careful lookout.

It also alleged that a moving and storage truck at the scene failed to properly respond to the fire truck's flashing lights and sirens or to properly yield, which blocked the fire truck driver's ability to see the boy, or the boy's ability to see the fire truck.

2012

IN THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI

**MERCY BENJAMIN,
by and through her next friend,
Chensen Sauder**

Plaintiff

v.

JACOB A. PETERSON

Defendant

Case No. 11AE-CV01283

Division II

Plaintiff, age 3 months, was a passenger in her mother's vehicle. Defendant was under the influence of alcohol and marijuana. Cars collided head-on. Terrified child survived the collision.



2013

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI

NOEL KEEN)
MOLLY NUHN)
DANA KEEN)
LINCOLN KEEN)
) Plaintiffs)
) v.)
))
JOHN R. OSMUNDSON)
IDEKER, INC.)
) Defendants)

Case No. 12CY-CV07451
Division 2

WRONGFUL DEATH OF WIFE AND MOTHER

Inattentive driver rear-ended vehicle in construction zone, causing that vehicle then to collide head-on with the Keen vehicle and resulting in the death of Mrs. Linda Keen and injuries to her husband Noel Keen. Mr. Keen and the three children of Linda and Noel were the plaintiffs.



Allegations against Osmundson were as follows:

Defendant John Osmundson was negligent by failing to exercise the highest degree of care while operating his motor vehicle, including but not limited to the following specific actions and omissions:

- a. Defendant John Osmundson was inattentive in that he failed to adequately monitor traffic conditions ahead.**
- b. Defendant John Osmundson failed to keep a careful lookout;**
- c. Defendant John Osmundson drove at an excessive speed for the conditions then and there existing;**
- d. Defendant John Osmundson failed to stop, slacken speed, or swerve when defendant John Osmundson knew, or by the use of the highest degree of care could have known, that there was a reasonable likelihood of collision in time to have:
 - i. Stopped;**
 - ii. Swerved; or**
 - iii. Slackened his speed;****
- e. Defendant John Osmundson drove his vehicle into the rear end of the Lebansky vehicle, thereby causing the Lebansky vehicle to cross the center line, be on the wrong side of the road, and collide head-on with the Keen vehicle.**
- f. Defendant John Osmundson failed to maintain control of his vehicle;**
- g. Defendant John Osmundson failed to yield the right of way;**
- h. Defendant John Osmundson drove at a speed which made it impossible for him to stop within the range of his visibility;**
- i. Defendant John Osmundson was, or may have been, negligent in other ways that will, or may be, revealed during discovery herein.**

Linda Jean Kindall Keen

Birth: Mar. 23, 1947
Moberly
Randolph County
Missouri, USA

Death: Sep. 12, 2010
Columbia
Boone County
Missouri, USA

Linda Jean (Kindall) Keen, 63, of Moberly Missouri, passed away Sunday, September 12, 2010, at University Medical Center in Columbia.

Linda was born March 23, 1947, in Moberly to Ella Hicks Kindall and Willard Byron Kindall. Linda married her best friend on May 27, 1965, and he survives of the home. Other survivors include her children and grandchildren, a brother and sister-in-law, as well as many cousins, nieces, nephews and friends. She was preceded in death by her father and mother; father-in-law, Cecil J. Keen; and mother-in-law, Vera Lee Keen; as well as a brother-in-law, Bobby C. Keen.

Linda was a lifelong teacher and was passionate about making a difference in the lives of her students and all the children she came into contact with. She taught at Cairo Schools, the Moberly School District and Westran Public Schools.

She was a long term active member of North Park Baptist Church and ministered in countless ways. Her most admirable qualities were her love for her family and her service for her Savior. She enjoyed spending time with her beloved grandchildren and traveling, especially on trips that included her entire family. Her service for the Lord and her compassion for other people will long be remembered by all the lives she touched. The earth will never be the same without her, but Heaven has welcomed home a good and faithful servant.

From Moberly Monitor Index.



Linda Keen regularly wrote notes in the inspirational books that she purchased and kept and/or gave to her children...like this one:

I've learned that if the one you're with doesn't make you a better and stronger person, you're with the wrong person. *Have I made my husband a better & stronger person?* —Apr 25

I've learned that you should never let a day pass without telling your wife you love her. *or your husband or your children* —Apr 61

78

2014

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI

KAREN ANSELM

Plaintiff

v.

ROBERT A. MINTZ

Defendant

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KC lawyer to pay \$300,000 settlement in girlfriend's death. / Page 5 |

VOLUME 28 NUMBER 46

WWW.MOELAWYERSMEDIA.COM

NOVEMBER 24, 2014 88

Missouri Lawyers

WEEKLY



Jennifer Arnett, daughter of Karen Anselmi

Local

Man must pay nearly \$300,000 in death of woman

Former Overland Park lawyer allegedly left a heavily intoxicated friend alone before she fell down a flight of stairs and died.

By GLENN E. RICE
The Kansas City Star

A former Overland Park lawyer who failed to tell police about his role in a friend's unexpected death must pay the woman's mother nearly \$300,000, a Clay County judge has ordered.

Robert A. Mintz allegedly left a heavily intoxicated Jennifer L. Arnett alone in her Kansas City apartment before she fell down a

"Jennifer (Arnett) was an only child. This broken-hearted family treasured the opportunity to be heard.

JOHN KURTZ,
ATTORNEY FOR
THE MOTHER

flight of stairs and died from a broken neck, according to a wrongful death lawsuit and other court documents. Mintz later found her body but did not immediately alert authorities or call Arnett's family and then tried to cover up that they had been drinking together, even though he knew she was an alcoholic trying to avoid alcohol, according to the lawsuit filed by her relatives.

State supreme courts in both Missouri and Kansas suspended Mintz's law license for dishonest conduct related to his cover-up of the events of Jan. 30, 2012, court records show.

On Wednesday, Circuit Judge Larry D. Harman approved the resolution of the wrongful-death case and ordered Mintz to pay Arnett's mother.

"Jennifer was an only child," said John Kurtz, the mother's attorney. "This broken-hearted family treasured the opportunity to be heard."

Lawyers for Mintz did not respond for comment.

At a hearing before the Kansas Supreme Court in December, Mintz apologized for his actions.

"I have a number of personal regrets that I am going to have to live with or try to for the rest of my life," he said. "She needed strength, and I didn't give it to her. The truth is that Jennifer was vulnerable and weak, and I was too."

According to court records, Arnett and Mintz had worked together at a law firm and had an affair

that lasted several years.

Arnett, who grew up in North Kansas City, was hired as an associate at the law firm where Mintz worked in 2005.

Family members said Arnett suffered from depression and chronic alcohol abuse. At some point, she received outpatient treatment at Shawnee Mission Medical Center.

She left the law firm in 2011 but continued her affair with Mintz, the court records said. The two discussed getting married.

According to the lawsuit and supreme court records, Arnett continued to drink heavily. At her family's urging, she entered an inpatient facility for treatment of alco-

hol abuse. When Arnett graduated from the program on Jan. 20, 2012, Mintz attended the ceremony.

But six days later, despite attending Alcoholics Anonymous meetings three times a day, Arnett relapsed and had drinks at a bar by herself. From there, the drinking increased.

The next day, she and Mintz shared a bottle of wine at dinner.

Two days later, they attended an Alcoholics Anonymous meeting together.

Three days later — Jan. 29, 2012 — they drank Champagne with brunch at a Country Club Plaza restaurant. Hours later, they sat down in a Northland bar, ordered dinner and drank vodka martinis, tequila, three or

four shots of vodka and a glass of port wine.

Leaving her car there, Mintz drove Arnett home afterward. In what he called a romantic gesture, he said he carried her from the car into her apartment. He placed her on a landing inside the front door and left.

The following morning, Mintz called Arnett but she did not answer. Worried, he drove to her apartment. The front door was unlocked. He found Arnett lying on the floor of the landing.

According to Kansas Supreme Court documents, Arnett felt cold to the touch, did not respond to Mintz and was not breathing. Mintz realized that Arnett had died.

Mintz said he was afraid to

call Arnett's mother because she would blame him for allowing Arnett to drink. As he went to retrieve her car from the restaurant, he deleted text messages between them from her cellphone.

He left Arnett's phone and keys inside her vehicle before driving home. Mintz called his law partner, who told him to call police.

After returning to Arnett's apartment, Mintz called police. After officers arrived, Mintz lied to them about the drinking and other details of what had happened.

Though Mintz did not face criminal charges, Kansas suspended his law license indefinitely. He can reapply for reinstatement there in three years. Missouri suspended his license in June.

He can apply for reinstatement after 32 months.

Mintz told the Kansas Supreme Court that his actions were "a personal failure."

To reach Glenn E. Rice, call 816-234-4341 or send email to grice@kcstar.com.

Suspended attorney settles over woman's death

WRONGFUL DEATH

■ **Venue:** Clay County Circuit Court

■ **Case number/date:** 14CY-CV07991/Nov. 12, 2014

■ **Judge:** Larry Harman

■ **Caption:** Karen Anselmi v. Robert Mintz

■ **Plaintiff's attorney:** John Kurtz, Hubbard & Kurtz, Kansas City

BY CATHERINE MARTIN

catherine.martin@molawyersmedia.com

A Kansas City area attorney who found his girlfriend's body and fled the scene wasn't criminally charged or disbarred over the incident, but he will pay the family for her wrongful death.

Missouri Lawyers Weekly ran a front page story on Nov. 10 about attorney Robert Mintz's night of heavy drinking with his recovering alcoholic girlfriend that led to her death. Two days after the article ran, a wrongful death suit settled, calling for Mintz to pay the woman's mother \$300,000. Mintz had already had his law license suspended in Missouri and Kansas because of the incident.

Karen Anselmi filed a suit in Clay County Circuit Court against Mintz in August over the January 2012 death of her daughter, Jennifer Arnett. Her attorney, John Kurtz, provided a statement about

the discipline and the settlement.

"Jennifer was an only child and just 31 years old at the time of her death. She is missed tremendously by all of those who truly loved her," Kurtz wrote in an email. "Her family is deeply grateful to the Kansas and Missouri Bars' disciplinary authorities for taking the issues so seriously and also to the Clay County, Missouri Circuit Court for giving them the chance to be heard."

Arnett and Mintz had a years-long relationship that started in 2007, when they were both married to other people, although they both later divorced their spouses.

In 2012, when Mintz was still married, he found Arnett dead in her apartment the morning after the two had gone on a drinking bender. Arnett was a recovering alcoholic, and Mintz had attended her graduation from in-patient alcohol treatment just over a week before their night on the town, according to Mintz's discipline file.

After drinking, Mintz took Arnett home and carried her into her apartment, leaving her at the bottom of the stairs. A

later report from the medical examiner attributed her death to a cervical spine fracture from a fall down the stairs, and cited ethanol intoxication as a contributing factor, the discipline file said.

When Mintz found Arnett's body, his response was to walk to the bar where they had left Arnett's car the night before, drive the car to her apartment and place her phone and keys inside. He also deleted their text message exchanges on both their phones.



Robert Mintz

Mintz drove home from the apartment without calling authorities or her family, but later returned after being advised by his law partner. When he talked to police, he didn't tell them he'd been at the scene earlier and

instead told them he hadn't seen Arnett since 5 p.m. the day before and they hadn't been drinking. At the advice of another lawyer, he later corrected his false statements, the discipline file said.

The Kansas Supreme Court indefinitely suspended Mintz, formerly a shareholder at Wallace, Saunders, Austin, Brown & Enochs, in February for his actions in the incident. The Missouri Supreme Court gave a reciprocal 32-month suspension of his Missouri license.

Clay County Circuit Judge Larry Harman approved a \$299,999.99 settlement in Anselmi's suit on Nov. 12, stipulating that \$29,999.99 be deducted for attorneys' fees.

The remaining \$270,000 will be awarded to Anselmi, the settlement said, as Arnett was not married and did not have children at the time of her death. Arnett's biological father consented to the proceedings, the court file said.

Mintz did not file a response to the suit. Kurtz said

Kansas City attorney John Franke represented Mintz's insurance company in the case, but Franke did not file any documents in the case. He also did not return a call seeking comment. [MO](#)

"Her family is deeply grateful to the Kansas and Missouri Bars' disciplinary authorities for taking the issues so seriously."

John Kurtz, plaintiff's attorney

2015

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

**WILLIAM ADAM WERNSMAN
KIMBERLEE WERNSMAN**

Plaintiffs

v.

**McKESSON CORPORATION
CHARLES BONES
PRES SERVICES, LLC**

Defendants

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**Case No. 1216-CV03302
Division 18**

THE WERNSMAN CASE



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A LIFE CHANGED FOREVER

THE PARTIES

Plaintiffs: William Adam Wernsman & Kimberlee Wernsman



Defendants:

**McKesson Corporation
Charles Bones (McKesson employee)
Pres American Energy Services, LLC**

McKESSON



3rd Party Defendants:

**Faith Technologies, Inc.
Pres American Energy Services, LLC**



Plaintiff Adam Wernsman suffered severe personal injuries while performing electrical work at the McKesson warehouse in Kansas City. Mr. Wernsman was employed by Faith Technologies. McKesson Corporation had hired defendant Pres Services to oversee the installation of a new air conditioning system in the warehouse. Pres Services in turn subcontracted with Faith Technologies to perform the electrical work on the job. The injury causing Mr. Wernsman to lose his leg happened when McKesson employee Charles Bones drove a forklift (with an 11' mast) into the scissor lift upon which Adam Wernsman was working.

Adam and his wife Kimberlee sued McKesson for the negligence of their employee Bones and Pres Services for failing to properly oversee the coordination of the project. McKesson filed claims against both Pres Services and Faith Technologies based upon provisions of the construction contracts including indemnity agreements.

The case was settled after 3 years of litigation (including 25 depositions) and 2 separate intensive and lengthy mediations.

2016

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

TRACY KEITH)

Plaintiff)

v.)

Case No. 11-2281-DDC-JPO)

RICHARD D. KOERNER)

and)

ANANSTACIO GALLARDO)

Defendants)



4A

Local

THE KANSAS CITY STAR.

Dec. 9, 2016

FACEBOOK.COM/KANSASCITYSTAR • TWITTER.COM/KCSTAR

Court allows lawsuit filed by former Kansas inmate

BY TONY RIZZO
trizzo@kcstar.com

A federal appeals court on Friday re-instated a lawsuit filed by a former Kansas prison inmate after she was sexually assaulted by a prison staff member.

The 43-year-old woman was serving a Johnson County sentence for a drug crime at the Topeka Correctional Facility when she was sexually assaulted in 2007.

In Friday's ruling, the court found that the woman should be allowed to argue to a jury that the practices of prison officials "created an atmosphere where employees, particularly maintenance employees, faced minimal supervision and little threat of investigation or discipline for inappropriate sexual behavior with inmates."

According to its ruling, the court found that there was sufficient evidence to present to a jury alleging that the warden was "aware of but failed to address a substantial risk that his employees would engage in sexual misconduct and thereby harm TCF (Topeka Correctional Facility) inmates."

When he learned of the assault, the warden referred the case to Topeka police, and the staff member was prosecuted in state court and pleaded guilty to unlawful sexual relations and trafficking in contraband.

But the woman later filed a civil lawsuit in federal court alleging that the warden and other prison officials violated her constitutional rights by creating an environment that fostered sexual misconduct by employees.

A judge dismissed the suit against the warden, but the woman appealed, and Friday the 10th U.S. Circuit Court of Appeals ruled in her favor.



Former inmate awarded \$2.25M

Past prison instructor assaulted her

By Tim Carpenter
timothy.carpenter@cjonline.com

A former inmate at Topeka Correctional Facility won a \$2.25 million judgment in U.S. District Court against a one-time prison employee involved in a scandal that contributed to change in state law on sexual relations with prisoners.

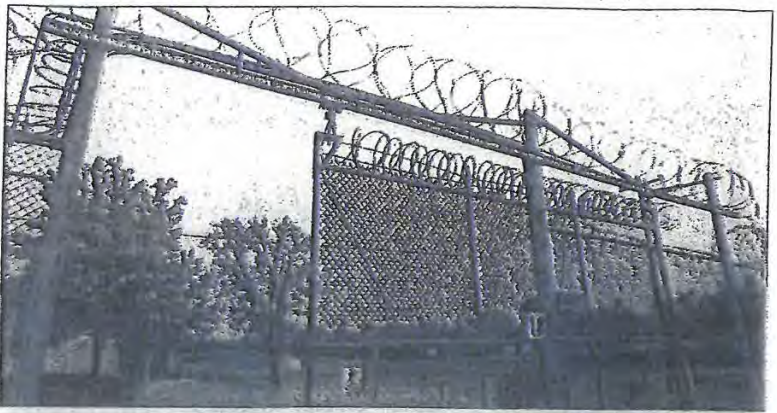
U.S. District Court Judge Daniel Crabtree issued the ruling against defendant Ananastacio Gallardo for \$750,000 in actual damages and \$1.5 million in punitive damages for his assault on inmate Tracy Keith.

It is not clear she can recover the damage award since the default judgment was against Gallardo as an individual rather than in his capacity as a state employee. In addition, Gallardo was more recently sentenced to federal prison on drug-related offenses.

Federal court documents said Keith remained haunted by incidents that occurred at the prison and "her full expectation is that it will haunt her for the rest of her life."

Crabtree's decision on the damage award to Keith was filed Tuesday in U.S. District Court in Topeka.

In October 2007, Gallardo was an instructor in the vocational plumbing program at the all-women prison in East Topeka when he forced Keith to have in-



2012 FILE PHOTOGRAPH/THE CAPITAL-JOURNAL

Ananastacio Gallardo, then a vocational instructor at the Topeka Correctional Facility, pictured here, owes \$2.25 million to a former inmate in a court decision filed Tuesday.

Inmate: Plaintiff said defendant tried to silence her after assault

Continued from 1A

tercourse with him. She became pregnant and later alleged Gallardo smuggled a morning-after pill into the prison for her, urged her to escape from TCF to secure an abortion and had another inmate stomp on her stomach in hopes of inducing a miscarriage.

She said Gallardo attempted to intimidate her into keeping quiet when he allegedly said, "Who's going to believe you? You're an inmate."

Investigation by the Topeka Police Department prompted Gallardo to plead guilty to one felony count of unlawful sexual relations with an inmate and two felony counts of trafficking contraband in exchange for dismissal by prosecutors of a rape charge.

Keith, who was released from prison in 2010, filed suit five years ago against Gallardo and officials in the Kansas Department of Corrections, including Secretary Roger Werholtz and TCF Warden Richard Koerner.

In 2012, all but Koerner

and Gallardo were dismissed from the case. It wasn't until 2015 that a judge dropped Koerner from the case.

John Kurtz, an attorney representing Keith, sought the judgment in February against Gallardo and requested \$5.5 million in actual damages and \$16.5 million in punitive damages. The request was based on the \$750,000 judgment rendered against a former TCF correctional officer in a separate sexual misconduct case.

While Koerner was no longer a defendant in the lawsuit, a representative of Kansas Attorney General Derek Schmidt's office submitted a written objection to Kurtz's motion for default judgment against Gallardo.

Assistant Attorney General John W. Smith argued the plaintiff's motion contained statements that could only be "characterized as collateral attacks" against Koerner's management decisions at TCF.

After publication of stories during 2009 by The Topeka Capital-Journal

about sexual misconduct at the prison, two independent audits in 2010 identified dozens of changes necessary to protect female inmates, improve management and upgrade security.

Koerner was removed as TCF warden, and his long career at the Department of Corrections ended in 2010.

Then-Gov. Mark Parkinson signed a bill elevating the criminal sanction for unlawful sexual relations with a person held in a prison facility.

In 2012, an investigation by the U.S. Justice Department found widespread sexual abuse at TCF among state employees and inmates, in violation of the constitutional rights of women incarcerated at the facility.

Gallardo was sentenced three years ago to federal prison after being charged with firearms violations while in possession of methamphetamine.

He also was the victim of a shooting in Topeka that law enforcement officers attributed to an argument.

THURSDAY ■ SEPTEMBER 1, 2016 ■ \$1.00 ■ CJONLINE.COM

2017

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

JESSICA KAY CROSSLIN)
THOMAS ADAMS and)
JESSICA KAY CROSSLIN, as) **Case #14CV06156**
Administrator of THE ESTATE OF) **Court #7**
DEBORAH CLARE)
Plaintiffs)
v.)
CHRISTINE J. CLARE, as Administrator)
of THE ESTATE OF MICHAEL A. CLARE)
Defendant)

**Kansas Supreme Court
PREVENTS A KILLER'S FAMILY FROM
KEEPING LIFE INSURANCE MONEY**

**3 DISTRICT COURT CASES: 1 SUPREME COURT OPINION
3 PROBATE ESTATES**

All claims derived from Michael Clare's shooting and killing his wife, Deborah Clare, on December 22, 2013 and then killing himself thereafter. The sole asset at issue was a life insurance policy (from American Family Life Insurance Company) in the amount of \$ 231,515.84 (at the time paid into court).



Mrs. Clare's daughter Jessica was determined to see that the life insurance money on the life of the Homicidal Mr. Clare should not be wholly taken by his heirs and kept from Mrs. Clare's heirs.

← Deborah Clare and her daughter Jessica Crosslin

Michael Clare →



Shawnee couple dead in apparent murder, suicide

Officers responded call regarding an unknown situation. When they arrived, they found two people dead inside a house in the 10800 block of West 72nd Terrace. Both persons suffered fatal gunshot wounds.



Police responding to a call at a Shawnee house Sunday evening found a man and his wife dead in what they say appears to be a murder and suicide.



Police went to the house on an unknown situation about 9:25 p.m. in the 10800 block of West 72nd Terrace. Inside the home, they found the bodies of Deborah K. Clare, 57, and her husband, Michael A. Clare, 46. Investigators believe Michael Clare shot his wife and then himself.



A motive has not been determined.



Both people lived at the residence.

Murder/Suicide – Dead – Michael A. Clare (Shawnee, KS)

SHAWNEE, Kan. —Shawnee Police are investigating an apparent murder-suicide at a home in the 10800 block of West 72nd Terrace.

Police found two people dead inside the home at about 9:30 p.m. Sunday. They were later identified as 46-year-old Michael A. Clare and his wife 57-year-old Deborah Clare.

Police said they went to the home after receiving a 911 call. Police said it appears that Clare shot and killed his wife before turning the gun on himself.



The Essence of the Dispute

The absolutely central issue was what would happen with the life insurance proceeds from the American Family Insurance Company policy which had the following features:

- The insured life was that of Michael Clare.
- The policy identified the “Primary Beneficiary” as Deborah K. Clare/spouse, and the “Contingent Beneficiary” as “Lawful Children of Insured.”

The broad possibilities for the eventual recipient(s) of that insurance money were as follows:

- The family of “Primary Beneficiary” Deborah K. Clare, the person killed
- OR**
- The family of Michael Clare, the killer of Deborah K. Clare.

The collective cases went through two distinct phases:

1st --- **The Michael Clare Time of (temporary) Victory**

i.e., the time during which the Michael Clare side of the cases had caught onto a probate technicality, claiming that Deborah Clare’s family had failed by not “causing [the Michael Clare probate petition] to be set for hearing” and was therefore barred from making a claim against the estate for the intentional killing of the children’s mother.

2nd --- **The Deborah Clare Time of (lasting) Victory**

The above scenario was reversed by the Supreme Court of Kansas on March 3, 2017, when it held that the Court had “warned against setting ‘traps’ for attorneys, and this is precisely what happened here.” *Matter of Estate of Clare*, 305 Kan. 967, 389 P.3d 1274 (Supreme Court of Kansas March 3, 2017). This 180-degree turn re-established the claim of Deborah Clare’s family against the estate of Michael Clare for his murder of Deborah Clare. This led to the resolution of the several cases with the vast majority of the insurance proceeds going to Mrs. Clare’s daughter and granddaughter.

DEBORAH K. CLARE

1956 - 2013 [▼ Obituary](#) [▶ Condolences](#)



Deborah K. Clare, 57, passed away Sunday, December 22, 2013, at her home. Visitation will be 9 to 10 a.m. Saturday, Dec. 28, at Maple Hill Funeral Home. Services will be 10 a.m. at the chapel. Burial will follow services at Maple Hill Cemetery. Deborah was born Oct. 6, 1956, in Kansas City, Kan., to Carl and Geraldine Croom. Deborah is survived by both of her parents, her son, Thomas L. Adams, her daughter, Jessica K. Crosslin (Jason), sisters, Carla Simpson, Patricia Brady (John), granddaughter, Cayleen and numerous special nieces and nephews that she loved and her two dogs, Mac and Cheyenne. Online condolences may be left Deborah's website located at www.maplehillfuneralhome.com Maple Hill Funeral Home Cemetery. Family Owned Since 1945.

Published in Kansas City Star on Dec. 27, 2013



2018

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

ROBERTA REID

Plaintiff

v.

**TIME WARNER CABLE BUSINESS,
L.L.C., et al.**

Defendants

Case No. 1616-CV27076

Pedestrian walking in the crosswalk with the light struck by industrial van.



Roberta Reid has always been a bright and shining light in other people's lives. She has been a lady full of joy.



This 5,390-lb. van struck her as she walked across across the street in the crosswalk at Linwood & Cleveland @ 9:28 a.m., Tuesday, Jan. 27, 2015.



Mrs. Reid **AFTER** frontotemporoparietal craniectomy, evacuation of subdural hematoma; intracerebral hematoma & bone flap placement

Mrs. Reid's life was changed in an instant on January 27, 2015 when the Time Warner Cable employee driving the van struck Roberta Reid who was walking in the crosswalk on the way to her daily employment as a Senior Companion. The consequences for Mrs. Reid were truly permanent, catastrophic and irreversible. She went from herself being a caregiver and provider for others and a wholly independent person to becoming a care recipient and one totally dependent upon others --- now for the rest of her life.

Medical Bills: \$270,663.59 **Life Care Plan:** \$2,105,972.00



Decompressive Craniectomy in the Treatment of Traumatic Brain Injury

A large right frontotemporoparietal craniectomy was turned. ...A subcutaneous pocket was created. The bone flap was placed into the subcutaneous pocket. ...Small twist drill was used to create a bur hole. The Camino bolt was secured through the bur hole.

[Operative Reports 1/28/15 13:48]

On that morning in 2015, Roberta Reid was an able-bodied 79-year-old, independent lady walking to catch a bus to work. Then, she was struck by the left-turning van. Her upper body and head first struck on the hood of the van, and then she was thrown violently to the ground. Here is what changed --- she went **FROM** still being a mother for her children and a caregiver for her sister **TO** having those children provide care 24 hours a day, 7 days a week.



Daughter Kellye Pruitt providing care to her Mother



Here is Mrs. Roberta Reid sitting in her wheelchair at the front door and enjoying the visits from the cats --- neighborhood animals that she was formerly able to feed personally and to take personal care of them. It is touching that they still came to visit her on her front porch.

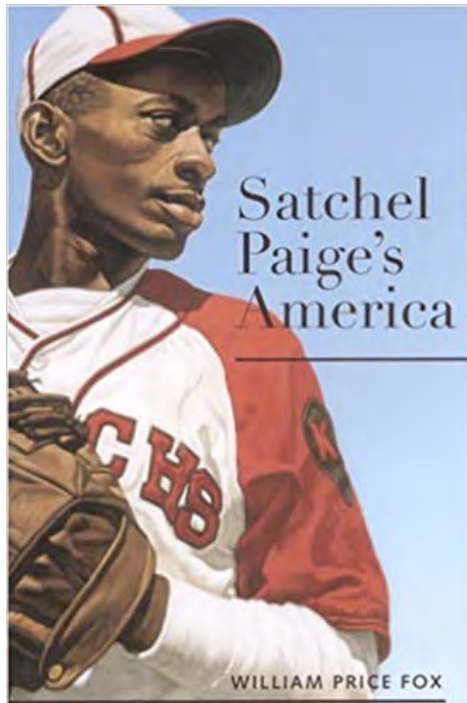
Settlement of the case enabled the family to purchase a van for Roberta's transportation and a retrofitted home to accommodate Roberta's needs for special care 24X7. Her family and her caregivers today are able to meet her needs and to provide her with the first-class environment and care which she so very much deserves.

2019

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

LAHOMA PAIGE,)	
Petitioner)	1985 CASE
v.)	
KANSAS CITY POWER & LIGHT)	
COMPANY,)	
Respondent)	

THE 2019 PAGE COMMEMORATES THE 35TH ANNIVERSARY OF A CASE INVOLVING LAHOMA PAIGE---THE WIDOW OF THE GREATEST PITCHER OF ALL TIME---SATCHEL PAIGE. A FASCINATING CASE. AN HONOR TO REPRESENT MRS. PAIGE.



The home of Satchel Paige [2626 E. 28th St., Kansas City] is currently being restored to its original grandeur after being damaged in a 2018 fire.

The following pages tell the story of Mrs. LaHoma Paige's claim against Kansas City Power & Light Company. It was a fascinating moment in time. The 2 major positions put forth by KCPL are shown below. In both instances, the responses of Mrs. LaHoma Paige were extremely sweet, unassuming, and humbly delivered.

Were the Paiges Running Some Sort of Business Out of their Home?

The KCPL attorney told Mrs. Paige that she had seen in old volumes of the Kansas City Directory where the entry read something like this:

KCPL Lawyer: "Mrs. Paige, I see here in an old version of the Kansas City Directory where it says this for 2626 E. 28th Street

'Leroy Robert Paige, 2626 E. 28th Street,
Birmingham Black Barons.'

What was that all about, Mrs. Paige?"

Mrs. LaHoma Paige: "Well, that was a team my husband played for in the Negro Leagues."



Were the Paiges Running a Rooming House Out of their Home?

KCPL Lawyer: “Mrs. Paige, isn’t it true that you had guests stay at your home frequently?”

Mrs. LaHoma Paige: “Yes, we did, that is true.”

KCPL Lawyer: “Some of those guests stayed for extended periods of time, isn’t that true?”

Mrs. LaHoma Paige: “Yes, sometimes.”

Later, one of the members of the Missouri Public Service Commission returned to the “rooming house issue” and asked this question::

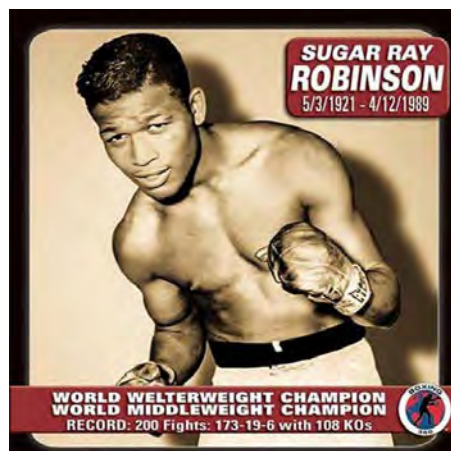
Commission Member: “Mrs. Paige, I want to go back to the question about the guests at your home. Was much of that before Kansas City passed its Open Housing Ordinance?”

Mrs. LaHoma Paige: “Yes, you are right about that.”

Commission Member: “And was it the case that many of your guests had no place else to stay other than private homes?”

Mrs. LaHoma Paige [very innocently and very sweetly and not at all arrogantly answered and mentioned the names of a few of their guests in the event that the Commission member might know some of them]:

“Yes, that did happen with a number of our guests...Joe Louis, Sugar Ray Robinson, Count Basie....”



Mrs. Paige says KCP&L overcharged

Pitcher's widow files complaint

By Brad Kava
A Member of the Staff

The widow of baseball legend Leroy "Satchel" Paige has filed a formal complaint alleging that for more than 30 years she was routinely overcharged by the Kansas City Power & Light Co.

LaHoma Paige, who has lived in a large house at 2626 E. 28th St. since 1950, alleged in the complaint filed with the Missouri Public Service Commission that she has been billed at a commercial rather than a residential rate.

Exactly how much she and her husband, who died in 1962, may have been overcharged is unclear. According to the complaint, \$490.53 was listed as the amount she overpaid for one recent 12-month period.

The complaint does not list a cumulative amount that the family allegedly overpaid. Mrs. Paige, her family and her attorney, John W. Kurtz, declined to comment.

In the PSC complaint filed June 27, Mrs. Paige asked KCP&L to calculate her alleged overpayments over the years, including interest. She



Mr. Paige



Mrs. Paige

also has asked the commission to take steps to remedy the problem.

A commission hearing on the case is scheduled for Nov. 7 in Jefferson City.

According to the complaint, Mrs. Paige became aware of the alleged overcharges in June 1983. It alleges that the commercial rate, called "IGSID," is never decoded on the monthly bills. This is "unintelligible to anyone not versed in the (KCP&L) code system," the complaint said.

After Mrs. Paige corresponded with KCP&L, the company returned the \$490.53, which was a calculation of the overcharge for the one-year period, the complaint said.

In a response to the complaint signed by KCP&L attorney Pat A. Shannon, the company admitted that Mrs. Paige had been billed at the

LaHoma Paige alleged in the complaint that she has routinely been billed at a commercial rather than a residential rate.

commercial rate, but it denied that there were overcharges on the bills.

The response said the company could not produce billing records as far back as 1950. A company representative did mail Mrs. Paige billing records from 1970 to 1983 and said billing records were available only as far back as 1969, according to documents on file with the commission.

Mrs. Shannon refused to discuss the matter in detail. But she did say the Paige complaint was the first case of its kind she had seen. Paul H. Gardner, a PSC attorney, also said he had not seen cases similar to the Paige complaint.

According to KCP&L's general rules, the customer's billing rate is set when the customer begins service with the company and is based on information the customer gives during an interview with a company representative.

A letter signed by KCP&L customer service representative W.J.

Zacharias and sent to Mr. Kurtz said the company is required to go back only to the last meter-reading date when a rate is changed.

"The responsibility is with the customer to make it known if there should be a change," said the letter, which is on file with the complaint.

Mr. Zacharias said in the letter that there was no indication of why the commercial rate was charged.

A 1950 newspaper article recorded that the Paige family had purchased the large house and said that the structure had previously been used as a rooming house.

Mr. Paige has been called the best baseball pitcher of his time by many of his contemporaries, including the late Jerome Herman "Dizzy" Dean, a Hall of Fame pitcher with the St. Louis Cardinals. Mr. Paige spent his peak years with the Kansas City Monarchs, a black team, before racial barriers were overcome in the sport. He later became the first black pitcher in the American League when he joined the Cleveland Indians in 1948 at age 42. He served a brief stint with the old Kansas City Athletics.

Mr. Paige, a native of Mobile, Ala., made his permanent home in Kansas City.

p. B1

11-5-84 KC Times

P. B1 7-12-85 K.C. Times

Paige's widow gets settlement on electricity overcharges

By Brad Kava
A Member of the Staff

Two years after she discovered that she might have been overcharged on her monthly electric bill for about 30 years, Laboma Paige has settled with the Kansas City Power & Light Co. for an undisclosed amount, believed to be about \$20,000.

The settlement, signed June 21 and expected to be made final by the Missouri Public Service

and both parties are satisfied."

Neither Mrs. Paige nor her lawyer, John Kurtz, would comment on the amount of the settlement. Pat Shannon, a lawyer for KCP&L, could not be reached for comment Thursday.

In a November hearing Mrs. Paige told commission members that she often had to leave her job as a cashier when her children called to say the electricity had been turned off at her home at 2626

Commission next week, came a month after the commission ruled that Mrs. Paige had been overcharged by the utility for at least 14 years.

"I was very pleased that it was all over," Mrs. Paige, 62, widow of former pitching great Leroy "Satchel" Paige, said in a telephone interview Thursday. "Some people said that I wouldn't have a ghost of a chance against the light company, but they were very fair.

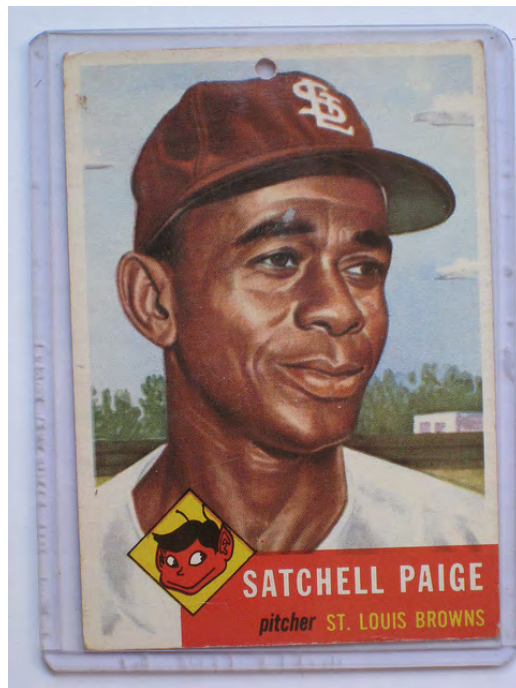
E. 28th St. because she couldn't afford her bills. She said that many times she found herself working just to pay the electric bills, which were as high as \$400 a month.

She assumed that the bills were routine for such a large house, until one of her daughters showed one of Mrs. Paige's bills to a friend who said that it was considerably higher than other people's bills.

Although the commission did not specify how much she had been

overcharged, her lawyer alleged overcharges of \$2,882 for one five-year period. Because no records were kept by Mrs. Paige or the company, they could not calculate the extent of her losses.

In an unusual decision, the commission found that Mrs. Paige had been charged at a commercial, rather than a residential rate. Mrs. Paige alleged that the overcharges had occurred since 1950, when she moved into the 12-room house.





LEROY ROBERT
 JULY 7, 1906
 JUNE 8, 1982

PAIGE

HE BEGAN WORK CARRYING SUITCASES AT MOBILE UNION STATION AND DEVISED A SLING HARNESS FOR HUSTLING SEVERAL BAGS AT ONCE. THE OTHER RED CAPS SAID HE LOOKED LIKE A "WALKING SATCHEL TREE" THUS LEROY BECAME SATCHEL AND SATCHEL BECAME A LEGEND.

HOW TO STAY YOUNG

- 1 AVOID FRIED MEATS WHICH ANGRY UP THE BLOOD.
- 2 IF YOUR STOMACH DISPUTES YOU, LIE DOWN AND PACIFY IT WITH COOL THOUGHTS.
- 3 KEEP THE JUICES FLOWING BY JANGLING AROUND GENTLY AS YOU MOVE.
- 4 GO VERY LIGHT ON THE VICES, SUCH AS CARRYING ON IN SOCIETY. THE SOCIAL RAMBLE AIN'T RESTFUL.
- 5 AVOID RUNNING AT ALL TIMES.
- 6 DON'T LOOK BACK. SOMETHING MIGHT BE GAINING ON YOU.



LAHOMA JEAN
 APRIL 7, 1922
 SEPT. 22, 1986

2020

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

**NICHOLE RENEE AGUIRRE)
DOMINIC MICHAEL BONAVIA)
JOE CARL ANTHONY BONAVIA)
MIKA RAE THURMAN)**

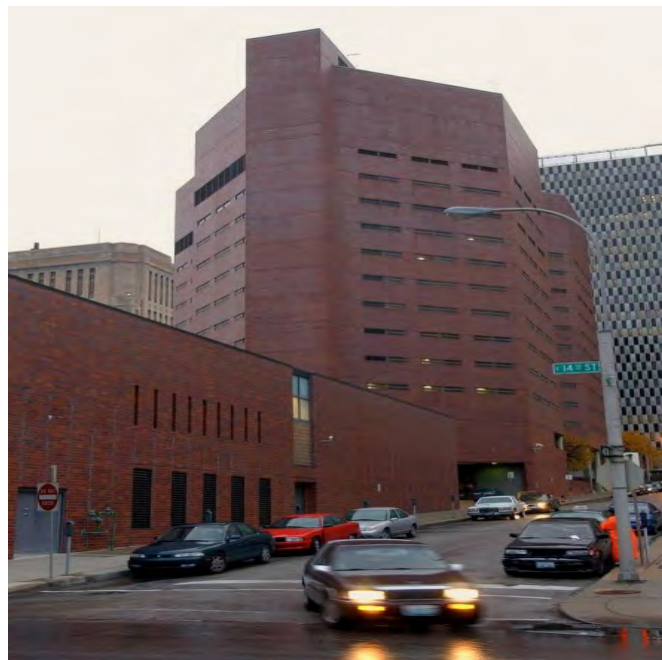
Plaintiffs

v.

**CORRECT CARE SOLUTIONS, L.L.C.)
JACKSON COUNTY, MISSOURI, et al.)
Defendants)**

Case No. 1916-CV12993

***[NOTE: Set forth below are
newspaper accounts & 1
public record pleading.]***



Editorial: The Jackson County jail should not be a death sentence

By The Kansas City Star editorial board APRIL 17, 2017 6:14 PM

“It will probably require an expensive lawsuit and some deep soul-searching by officials to establish the truth about the circumstances of ReGina Thurman’s January death in the Jackson County Detention Center.”

DAVID EULITT THE KANSAS CITY STAR

“...In her last hours of life, the mother of four [ReGina Thurman] was seen by two nurses at the Jackson County jail who were sent to check on Thurman’s complaints of burning chest pains, a backache and numbness in her left leg. The guard who had to use a wheelchair to bring Thurman to a changing area because she was struggling physically also saw her distress. And one of her daughters, a nurse, desperately tried to call the jail when she was alerted to her mother’s failing condition by another female inmate who had access to a phone. Jail staff transferred the daughter’s call to voicemail. Not once. Not twice. But four times.

Imagine her anguish when she arrived at the jail ... she was told her mother was dead. Two Tums, over-the-counter antacid tablets, were the extent of the medication Thurman received. At least until she was discovered without a pulse. ... An autopsy later determined that an aortic dissection was the cause of death. That’s a condition where the main artery to the heart shreds and tears. ...

A \$3.2 million annual contract should guarantee more accountability. That’s the amount Jackson County pays Nashville-based Correct Care Solutions for health care at the jail.” ...



Doctors say Jackson County jailhouse death might have been avoided

BY MIKE HENDRICKS MHENDRICKS@KCSTAR.COM APRIL 16, 2017 07:00 AM

“Jackson County jail inmate ReGina R. Thurman displayed classic symptoms of someone whose main blood vessel, the aorta, was about to burst. The 53-year-old Kansas City-area woman complained of burning chest pains and backache, and her left leg had gone numb. [She]...should have been transported immediately to a hospital emergency room, two cardiologists told The Star. Yet records show that the only medical care Thurman received at the Jackson County Detention Center during the hour that passed between first seeing a nurse about her chest pain and slumping to the floor lifeless were two antacid tablets and a bit of advice. ... The Mayo Clinic and other experts say tears in an artery’s walls, known as dissection, almost always result in a fatal rupture if not treated with drugs or surgery. ...

‘No question they should have sent her to the ER with that background,’ cardiologist Alan Forker said, referring to Thurman’s hypertension. Forker...added, ‘Clearly, [what happened] was not the way to handle her.’ ...

...the county did issue the following comments: ...

‘On the late evening of January 19, 2017, Department of Corrections staff contacted Correct Care Solutions staff and requested and received their assistance. Any questions regarding the medical care of Ms. Thurman in our facility should be directed to Correct Care Solutions.’

... 'Because the story you are developing deals with the specific health aspects of a patient, [a Correct Care Solutions]' a spokesman said, 'by regulation we are unable to response in detail. We consider the care of our patients to be a top priority at CCS, and we are giving this our full attention.' ...

...she began having chest pains around midnight.... 'A burning sensation in her chest' is how the sheriff's report described it. The intake nurse checked her vital signs. 'They were good,' she told one of the sheriff's deputies who investigated Thurman's death. So she gave Thurman two Tums tablets and sent her back to the holding area. But the pain didn't go away. Forty-five minutes later, jail staff advised the nurse that 'Thurman was on the floor complaining about left leg numbness and back pain.' ...Thurman's daughter Aguirre got a phone call from an inmate at the jail...[who] advised that Thurman was lying in a cell curled up in a ball, advising that she was having chest pains and no one was listening to her.'

Aguirre, a hospital nurse...began calling the jail to get information about her mother. She said she talked to four different staff members, and each time she was transferred to a voice mail. ...As Aguirre frantically tried to get ahold of someone with knowledge of her mother's condition, the nurse who'd given Thurman the Tums asked a nurse on duty on another floor to come down and give her a second opinion. That second nurse theorized that Thurman's back and leg pains might be her sciatic nerve acting up from sitting in intake all day. However, those same symptoms, when coupled with the chest pains, are indicative of either an oncoming heart attack or tear of the aorta, according to the doctors The Star consulted.

'Those are typical symptoms of aortic dissections,' said a prominent heart surgeon currently on staff at an area hospital.... 'It probably should have been suspected.' 'This is a familiar story of dissections being missed,' he said. 'They think it's an upset stomach. But I would say they should have sent her to the ER.'

Instead, about 1 a.m., one of the correctional officers decided it was time for Thurman to change into jail clothes. After being wheeled into the dressing room, Thurman sat on a bench for a moment before slumping and then sliding onto the floor. The guard summoned the nurse, who first thought Thurman was holding her breath as she lay on the floor. 'She kept telling Thurman she needed to breath (sic) and relax and she needed to get dressed,' investigators said. But when she checked Thurman for a pulse and found none, the nurse began resuscitation efforts and asked someone to call paramedics. They arrived at 1:25 a.m., and Thurman was pronounced dead 46 minutes later. ..."

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

NICHOLE RENEE AGUIRRE, et al.)
Plaintiffs)
vi.) **Case No. 1916-CV12993**
CORRECT CARE SOLUTIONS, L.L.C., et al.)
Defendants)

PLAINTIFFS' SATISFACTION OF JUDGMENT

COME NOW plaintiffs and state to the Court that the payment of monies described within Judge Adam Caine's July 2, 2020

JUDGMENT and ORDER APPROVING **SETTLEMENT** PURSUANT TO §537.080 & §537.095 R.S.MO.

has been fully satisfied by receipt of payment from defense counsel.