

Family reaches \$2.644 million in settlements after tragic wreck **TRAGEDY**

By **GUY LORANGER, Staff Writer**

Charlotte attorneys Daniel R. Hansen and Steven A. Meckler felt confident they could secure settlements from three bars that were accused of serving a drunk driver who killed six people in 2003 in one of the worst accidents in Wake County history.

Although dram shop act liability required proof the bars served a noticeably intoxicated patron, and no patrons or servers testified the driver was visibly drunk on the day of the accident, the attorneys had a key witness: The driver himself.

Deposed in a jail cell while serving an 8- to 10-year sentence for involuntary manslaughter, the remorseful driver told attorneys that he believed he was visibly intoxicated before he left all three establishments.

That testimony, combined with toxicology reports that estimated the driver's intoxication levels throughout that day, helped the attorneys negotiate the bulk of \$2.644 million in settlements for the family of two of the accident's victims: A mother and father who died in front of their twin sons.

"It is pretty rare when you have a driver who admits to being intoxicated like that," Hansen said, "and I don't think I'll ever forget sitting in that jail when he was deposed. He was very emotional. This was really a tragedy for everyone involved."



**Daniel R.
Hansen**



**Steven A.
Meckler**

The accident occurred Nov. 1, 2003, at the intersection of N.C. 54 and Nowell Road near Carter-Finley Stadium after an N.C. State football game.

An N.C. State student allegedly ran a stop sign in his SUV and collided with another car in the middle of the intersection. Six people went to the student's aid, including a mother and father who were visiting their twin sons, also N.C. State students, on Parents Weekend.

Just after they pulled the student out of the car and placed him in the road, an Econoline work van plowed into the group at an estimated 56 mph.

Five people were killed instantly. Another died on the way to the hospital. Three others were injured. According to news reports, the two sons who had witnessed their parents' death wept in a police car.

SETTLEMENTS

In 2005, the family of the two parents, including the twin sons and a younger child who was at home at the time of the accident, sued several parties in a Union County court for wrongful death and infliction of severe emotional distress.

The attorneys went through extensive discovery, at times holding depositions in conjunction with the other plaintiffs' attorneys and defense counsel, and negotiated a series of settlements between August 2005 and July 2007.

The settlement amounts ranged from as low as \$2,000 to as high as \$850,000.

The parties who settled included:

* The **van driver**, who had a blood alcohol level of 0.18 when a test was taken less than two hours after the accident, according to police reports.

The plaintiff's toxicology experts estimated that his level had been 0.23 at the time of the accident. That's nearly four times the legal limit of 0.08.

In addition to facing civil liability, the driver pled guilty to involuntary manslaughter and assault with a deadly weapon inflicting serious injury.

* The **driver's employer**, who allegedly owned the van that was involved in the accident. The estate had sought to hold the employer liable under a respondeat superior theory, in which an employer is held liable for the harm caused by an employee.

* The **N.C. State student**, whose initial wreck created the accident scene. The estate had pursued liability under the rescue doctrine, in which a person can be held liable for creating a circumstance that places tort victims in danger.

* The **N.C. Department of Transportation**, which had allegedly failed to place a traffic signal at the intersection despite knowing that a light was needed to make it safer. The traffic signal was installed three weeks after the accident.

* The **three drinking establishments**, where the driver had allegedly been drinking throughout the day.

"We cast a pretty wide net," Meckler said.

The estate sued the drinking establishments under a joint and several liability theory because "they had combined to cause the final outcome," Meckler said.

"He was so intoxicated at the time it happened that it would have been unusual for somebody to not have noticed that he was intoxicated wherever he was at," he said.

An issue that arose in negotiations was that, according to the driver, he often drank and would not have shown the same signs of intoxication as a normal person would. However, the attorneys argued that his drinking history actually should have put the bars at a higher level of notice, Meckler said.

The toxicology reports, which cited the driver's blood alcohol level from the police report (0.18) and his height and weight, also proved to be helpful in establishing a timeline that estimated the driver's varying levels of intoxication as he went from bar to bar.

Ultimately, the bar where the driver first drank contributed less to the settlement amount than the other bars, Hansen said.

Resolving the case through settlements instead of going to trial proved to be the best route for all parties involved, Meckler said.

"These kids had nothing left, and you wanted them to be at least financially stable so they could focus on getting through their lives and their grieving," Meckler said. "And if we had gone to trial, these people would have had to relive a terrible tragedy."

"I don't think anybody wins in this."