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Monroe County Jury Awards \$1.5M in Multi-Vehicle Crash

Max Mitchell, The Legal Intelligencer

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The family of a woman killed in a multiple-vehicle collision has received an award of nearly \$1.5 million from a Monroe County jury.

Last week, the jury found in favor of Roger J. Klein, the husband of the deceased driver, Jennifer L. Holzmacher-Klein, and against the defendant driver who allegedly caused the fatal four-vehicle collision.

The plaintiffs, Klein and Holzmacher-Klein's son, Kamden Holzmacher, had sought recovery from two additional drivers, according to attorney Thomas W. Harrity, who represented the plaintiffs. But those defendants settled out of the case for a total of \$215,000 prior to verdict. Including the settlements, the total award for the plaintiffs was \$1.7 million.

Harrity said the jury award was a pragmatic analysis of the evidence and the opinion presented by his expert economist.

"We obviously think it was a fair and just award," Harrity said. "The jury, I think, accepted the plaintiffs' case as credible."

According to the plaintiffs' memorandum, on March 24, 2009, Holzmacher-Klein was driving a Hyundai Elantra southbound along state Route 33 in Monroe County, when her vehicle was struck head-on by a Subaru Forester that was owned by defendant Shixiong Hu and being driven northbound by his wife, defendant Jigai Wang.

The portion of road, according to the memo, had four lanes, and the north and southbound traffic was separated by a grassy median that did not include any barriers. The memo contended that Wang veered off the western edge of the road, traveled across the median and collided with the front of Holzmacher-Klein's vehicle.

According to the memo, the plaintiffs' sedan was knocked clockwise, and made a second collision with Wang's vehicle before it was pushed into a Jeep that was being driven by defendant Alan S. Heald. Holzmacher-Klein's vehicle then rotated and was hit on the driver's side by a Hyundai Sonata being driven by defendant Lorraine Johnstone, the memo said.

Holzmacher-Klein's husband and her son sued Wang, Hu, Heald and Johnstone on behalf of

Holzmacher-Klein's estate. The plaintiffs alleged that Wang, Johnstone and Heald were negligent. The plaintiffs further pursued a negligent entrustment claim against Hu.

According to the plaintiffs' memo, Wang was "clearly careless." The plaintiffs also said evidence showed that Hu was Wang's driving instructor, and that Wang was a very inexperienced driver.

"In fact, on the date of the accident, she was driving on Route 33 southbound highway for perhaps the first or second time," the memo said. "She also has a prior accident history."

Harrity said that, although no accident reconstruction or liability expert testified at trial, an independent eye witness, who had been driving three car lengths behind Holzmacher-Klein when the collision occurred, testified at trial.

The pretrial memo filed by Wang and Hu noted that the driving conditions were clear, and said that Wang had been driving below the speed limit. The memo also said that, according to testimony, a tractor-trailer to the right of Wang's vehicle began moving to the left, which prompted Wang to steer to her left to avoid being hit by the truck.

"As a result, the Subaru crossed the unprotected, narrow grass median into the oncoming southbound lanes of travel. The collision ensued," the defendants' memo said.

The memo also noted that Wang had dropped Hu off at a nearby airport before the collision occurred.

Johnstone, in her pretrial memo, disputed contact with the plaintiffs' vehicle, and sought to preclude testimony from two of the plaintiffs' experts, as well as scene and autopsy photographs.

Holzmacher-Klein died in the collision. She was 37 at the time. Statistically, Holzmacher-Klein was expected to live another 44 years, according to the plaintiffs' expert economic consultant, Andrew Verzilli.

Holzmacher-Klein was working as a patient coordinator with Lehigh Valley Center for Sight, and Verzilli estimated that she would have earned between \$1.5 million and \$1.8 million during her expected normal work-life.

Hu and Wang, in their pretrial memo, contended that some of Holzmacher-Klein's injuries were caused by other drivers.

Heald was let out of the case after he tendered his \$15,000 insurance policy and agreed to drop his personal injury claims against Holzmacher-Klein's estate.

Johnstone, who had a \$300,000 policy with Geico, settled out of the case for \$200,000.

According to Harrity, convincing the jury that there was contact between the Johnstone vehicle and Holzmacher-Klein's vehicle would have been challenging. But because the case was filed before the laws governing joint and several liability were changed, he would have only needed to establish 1 percent liability against Johnstone to recover the full jury award.

According to Harrity, Heald and Johnstone were not listed on the verdict sheet, and there was no evidence about either defendant presented at trial. Following the trial, Monroe County Court of Common Pleas Judge Jennifer Harlacher Sibum also issued a directed verdict dismissing the

negligent entrustment claim against Hu.

The trial lasted three days, and the jury deliberated for two hours, according to Harrity.

The jury found that Wang was negligent, and caused Holzmacher-Klein's injuries. The jury awarded \$1.07 million in net earning capacity over Holzmacher-Klein's lifetime, \$165,000 in contributions for support of family, and \$250,000 in loss of services.

Kent Herman of King, Spry, Herman, Freund & Faul represented Heald. He said that his client had a limited policy, which drove the decision to settle the claim early.

Johnstone was represented by Marshall Dennehey Warner Coleman & Goggin attorney Brent Green, and attorneys Wieslaw T. Niemoczynski and Jaime Wertz of Rabenold Koestel Scheidt represented Wang and Hu.

Green, Niemoczynski and Wertz did not return a call for comment.

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