

VERDICT of the **WEEK****MOTOR VEHICLE****Pedestrian — Wrongful Death — Intentional Torts****Wife repeatedly ran over cheating husband****VERDICT** \$3,750,000
ACTUAL \$3,717,500**CASE** Gerald Harris, Sr., and Mildred Harris v. Clara Harris, No. 2004-34761
COURT Harris County District Court, 281st, TX
JUDGE David J. Bernal
DATE 1/19/2007**PLAINTIFF**
ATTORNEY(S) Richard T. Howell, Jr., Buckley, Mathews, White & Howell LLP, Houston, TX
Joe B. Stephens, Katy, TX**DEFENSE**
ATTORNEY(S) Dean Blumrosen, Houston, TX

FACTS & ALLEGATIONS Plaintiffs' decedent David Harris, 44, a Clear Lake orthodontist, was married to Clara Harris. Suspecting that her husband was having an affair, Mrs. Harris hired Blue Moon Investigations. On July 24, 2002, Mrs. Harris learned from Blue Moon that Mr. Harris was at the Nassau Bay Hilton hotel. Mrs. Harris drove there with her 16-year-old stepdaughter (David's daughter, Lindsey) and entered the hotel. She saw her husband exiting the elevator with his girlfriend and attacked them. After hotel staff broke up the fight, Mrs. Harris walked to her car, and Mr. Harris walked his girlfriend to hers. As he was helping his girlfriend into her vehicle, the plaintiffs claimed, Mrs. Harris floored the accelerator of her sedan, hit him, then ran over him repeatedly. A Blue Moon investigator videotaped the incident. Mr. Harris was declared dead at the hospital.

Mrs. Harris was convicted of murder and sentenced to 20 years in prison. She is appealing the conviction.

The decedent's parents brought a wrongful death suit against Mrs. Harris, alleging that she murdered her husband. They also alleged negligence against Mrs. Harris as well as Blue Moon Investigations and Nassau Bay Hilton.

Blue Moon and Nassau Bay Hilton settled for \$32,500 prior to trial.

The plaintiffs' attorney called Mrs. Harris to the stand, but she refused to answer questions pursuant to the Fifth Amendment.

Lindsey was in the front seat during the incident. She testified that her stepmother ran over her father repeatedly as she screamed for her to stop. According to Lindsey, Clara then

stopped the car and got out, yelling, "Now, you see what I can do!" and laughing.

The plaintiffs' accident reconstruction expert opined that there were multiple runovers, particularly in light of on evidence found on the bottom of the car. The ambulance driver took a medical history from Mrs. Harris at the scene, in which Mrs. Harris stated that she ran over Mr. Harris two to three times.

Mrs. Harris' criminal conviction did not come into evidence. The defense did not dispute negligence, but denied that Mrs. Harris committed murder, arguing that it was an accident. The defense also emphasized that, at Mrs. Harris' criminal trial, Mr. and Mrs. Harris supported her, asking the jury to give her probation.

Mrs. Harris' insurance carrier denied coverage and did not provide a defense.

INJURIES/DAMAGES The plaintiffs were notified that their son was hurt, and they came to the scene, where they saw him from a distance. They then went to the hospital and learned that he was dead. Standing over his son's body, the elder Mr. Harris told him that he wished he could trade places with him.

The decedent's body ended up about 65 feet from the point of initial impact. The autopsy doctor testified that the injuries included a severed heart, 22 broken ribs, a broken hip, a punctured and collapsed lung, a broken jaw, a broken mandible, deep contusions from tires, blood in the lungs, a partially severed ear with degloving and other trauma. He opined that the injuries showed that Mr. Harris was run over from different directions; that the car, which was 6 inches off the ground, caused the injuries as it passed over his body; and that David lived for 17 minutes after the ambulance arrived.

At one point during his closing argument, the plaintiffs' attorney, Joe Stephens, assumed the role of Mr. Harris and said to the decedent's mother, "Mother, I love you, and I'm sorry I never got to say goodbye to you." Stephens later took on the role of Mr. and Mrs. Harris and, speaking their testimony, urged the jury to prevent Mrs. Harris from profiting from her husband's death.

Mr. Harris, a retired school administrator, was 78 at the time of trial, and Mrs. Harris was 74.

The plaintiffs' attorneys argued for each plaintiff to receive \$1 million for mental anguish, \$1 million for lost companionship and society and \$360,000 for pecuniary loss. The plaintiffs testified that their son had promised to take care of them financially in their old age.

Claims by the estate and the decedent's children were settled in prior litigation.

The jury was asked whether the defendants were negligent and whether Mrs. Harris committed murder.

RESULT The jury found murder against Mrs. Harris and negligence against Mrs. Harris, Blue Moon and Nassau Bay Hilton. Fault was apportioned 80% to Clara, 17% to Blue Moon and 3% to the hotel.

The jury found that the plaintiffs' damages were \$1,875,000 each. A \$32,500 settlement credit was applied equally between

them, reducing the recovery to \$1,858,750 apiece (a total of \$3,717,500).

Mrs. Harris is legally responsible for that entire amount, plus prejudgment interest, postjudgment interest and costs of court. Prejudgment interest is expected to be more than \$300,000, according to the plaintiffs' attorneys. The plaintiffs' attorneys said they plan to depose Mrs. Harris and the executor of the decedent's estate so that execution on Mrs. Harris' available assets can begin.

GERALD HARRIS, SR. \$250,000 past loss of society
\$250,000 future loss of society
\$375,000 future lost pecuniary contribution
\$500,000 past mental anguish
\$500,000 future mental anguish
\$1,875,000

MILDRED HARRIS \$250,000 past loss of society
\$250,000 future loss of society
\$375,000 future lost pecuniary contribution
\$500,000 past mental anguish
\$500,000 future mental anguish
\$1,875,000

TRIAL DETAILS Trial Length: 2 weeks
Trial Deliberations: 1.5 days
Jury Vote: 12-0
Jury Composition: 6 male, 6 female

PLAINTIFF EXPERT(S) Betty Johnson, paramedics/paramedical, Houston, TX
Ronald Saenz, accident reconstruction, Houston, TX
David Wolf, M.D., pathology, Houston, TX

DEFENSE EXPERT(S) None reported

EDITOR'S NOTE Defense counsel did not respond to a faxed draft of this report and a phone call.

—John Schneider

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