

D A D E

The defense also argued that post-mortem testing showed that Turner had a blood alcohol level of more than .03 over the limit as well as crack cocaine in his system.

INJURIES/DAMAGES *death*

Turner was killed in the accident leaving a wife and three sons aged 8, 6 and 4. His wife testified that her husband was her best friend and that he had loved spending time with his children. He had enjoyed taking them fishing and playing sports with them. He liked to coach various sports. They sought \$2 million for past and future loss of services and pain and suffering.

The defense contended that even if Turner had lived, he had a very short life span ahead of him. The defense's expert cardiologist, Joshua Furman, testified that based on Turner's crack-cocaine use and multiple prior cocaine-induced heart attacks, that Turner only had about a year to live.

RESULT The jury found that Meyer was not negligent and that Turner was under the influence and more than 50% responsible for the accident.

DEMAND \$900,000
OFFER \$30,000

TRIAL DETAILS Trial Length: 3 days
Trial Deliberations: 26 minutes
Jury Vote: 6-0

PLAINTIFF EXPERT(S) Michael Piette, Ph.D., economics, Tallahassee, FL

DEFENSE EXPERT(S) Dennis Bambach, accident reconstruction, Miramar, FL
Joshua Furman, M.D., cardiology, Miami, FL
Daniel Spitz, M.D., medical/health, Miami, FL

EDITOR'S NOTE The estate's lawyer did not respond to a faxed draft of this report or two phone calls.

—Michael Hill

www.VerdictSearch.com

Search our extensive database
of verdicts and settlements.

1-800-832-1900

MOTOR VEHICLE

SUV — Police as Defendant — Municipalities

Miami Beach cop ran over two sunbathers

SETTLEMENT \$1,500,000

CASE The Estate of Stephanie Tunc and Sandrine Tunc v. City of Miami Beach, No. 2003-21813-CA-01

COURT JUDGE Miami-Dade County Circuit Court, FL
Ronald Dresnick

DATE 3/10/2006

PLAINTIFF ATTORNEY(S) Paul A. McKenna, McKenna & Obront, Miami, FL
Curt D. Obront, McKenna & Obront, Miami, FL

DEFENSE ATTORNEY(S) Judith Weinstein, Miami City Attorney's Office, Miami, FL

FACTS & ALLEGATIONS On Feb. 22, 2003, plaintiffs Sandrine Tunc, 27, a mail carrier, and her sister, Stephanie Tunc, 26, were sunbathing at Miami Beach. Miami Beach Police Officer George Varon was investigating a report of a robbery on the beach. He was driving a police SUV through an area of sunbathers near a lifeguard station when he rolled over the sister, killing Stephanie Tunc and injuring Sandrine Tunc.

Sandrine Tunc and her parents Claude and Martine Tunc, behalf of their daughter's estate, sued the city of Miami Beach for Varon's negligent motor vehicle operation.

The Tunc's attorney contended that Varon wasn't paying careful attention to his path as he drove about 5 mph. Various eyewitnesses placed Varon's attention on other beach sights. Their attorney also noted that he drove his SUV onto an area crowded with sunbathers on a busy day and didn't use his siren to alert beachgoers. Plaintiff's counsel argued that when Varon heard people scream after rolling over the Tuncs, he didn't get out of his truck, but rather backed over them again.

The city did not dispute liability.

INJURIES/DAMAGES *abrasions; contusions; death; fracture, coccyx; fracture, rib; fracture, sacrum; lacerations*

Stephanie Tunc died within hours. She incurred medical bills of \$45,000. Sandrine Tunc suffered moderate liver and spleen lacerations, a lung contusion, a contusion of the buttocks and abdominal wall and closed fractures of the sacrum, coccyx and one rib, a traumatic pneumothorax injury, anemia and friction burn of face, neck and scalp. She spent 10 days in the hospital and incurred medical bills of nearly \$40,000. She has been receiving regular psychological treatment and is too weak to

return to her job as a mail carrier.

RESULT The parties agreed on a settlement of \$1.5 million to be split equally between Stephanie's estate and Sandrine. However, under state law they have only received \$200,000 thus far as a special bill to authorize the settlement and release the remaining \$1.3 million is still pending before the state House of Representatives.

The Tunc Family as part of the settlement asked the City of Miami Beach to pass an ordinance which they did, prohibiting non-emergency vehicles from traveling on the beach.

—Stephen DiPerte

MEDICAL MALPRACTICE

Delayed Treatment

Ship passenger should've been airlifted immediately

VERDICT

Defense

CASE

Tom Traveler v. Royal Caribbean Cruises, Ltd., No. 97-26571CA; 96-18918 CA32

COURT

Miami-Dade County Circuit Court, FL

JUDGE

Sarah Zabel

DATE

5/19/2006

PLAINTIFF

ATTORNEY(S)

Guy B. Bailey, Bailey & Dawes, Miami, FL
Cheryl Riess, Bailey & Dawes, Miami, FL

DEFENSE

ATTORNEY(S)

Curtis J. Mase (lead), Mase & Lara PA, Miami, FL
Leah Martinez, Mase & Lara, Miami, FL

FACTS & ALLEGATIONS On Nov. 26, 1995, Tom Traveler, a 43-year-old politician, and his wife were passengers on Royal Caribbean's cruise ship, the Majesty of the Seas in Miami. A pseudonym was used to protect the identity of Traveler.

On Nov. 28, Traveler took a fitness class in the Ship Shape Fitness Center. It was a stretching and strengthening class for abdominal and back muscles. He felt discomfort in his lower back but continued at the advice of the fitness instructor. After the class, he felt horrible pain and was taken via wheelchair to the infirmary.

The ship's senior doctor prescribed Traveler painkillers and non-steroidal anti-inflammatory agents and bed rest. The plaintiff was in bed for two days. His wife told the doctor that there was no change in his condition. The plaintiff began to have trouble urinating. On the morning of Nov. 30, the plaintiff stood up to get out of bed and felt an explosion in his back. He then felt a loss of sensation in the saddle area and in his legs.

He was examined by another ship doctor at about 6:30 a.m. and the doctor determined he had a neurological deficit and a lumbar herniation. The Majesty docked at sea so he was disembarked from the ship by an emergency tender. At about 8 a.m. he was taken to a hospital in the Cayman Islands. The hospital did not have the capacity to perform neurosurgery. He was given the choice to go to a hospital in either Mexico or Miami, and he chose Jackson Memorial Hospital in Miami and he underwent surgery to remove a lumbar disc at about 1 a.m. on Dec. 1. On Dec. 2 he reherniated his disc which required a second surgery.

Traveler sued Royal Caribbean Cruises for medical malpractice, for the negligence of the fitness instructor, for negligently hiring the doctors and fitness staff, for negligent misrepresentation and fraudulent inducement in getting him to sign up for the fitness class.

On the morning of the trial, Judge Sarah Zabel receded an almost two-year-old order that allowed Traveler to bring a medical malpractice claim against Royal Caribbean. The case then proceeded on the medical malpractice claim only.

The trial was bifurcated on the issues of liability and damages. Judge Zabel ruled that the severity of Traveler's injuries would be prejudicial to the jury.

Traveler's lawyer argued that he should have undergone surgery within the first 12 hours. He presented the testimony of expert orthopedist Richard Gardner who stated that surgery is required within 12 hours in case of an injury such as Traveler's. Gardner stated that he was familiar with the medical standards of care aboard a cruise ship because he previously worked as a physician on one. Gardner also testified that Traveler should have been airlifted immediately to Miami for consultation with an orthopedic surgeon.

Defense counsel presented the testimony of Dr. Arthur Diskin who stated that Royal Caribbean met the standard of care for hiring their ship's doctors. Diskin stated that the ship hired the doctors per the guidelines provided from the American College of Emergency Physicians, which state that physicians must have at least three years of general practice experience as well as minor surgical experience.

Defense counsel pointed out that Gardner has been disqualified numerous times as an expert in Florida and has no hospital privileges in the state, and he only worked for one cruise ship lines. On cross-examination defense counsel elicited from Gardner that he was fired from his cruise ship position.

Royal Caribbean also maintained that surgery was performed on Traveler in the appropriate amount of time. Defense neurology expert Kenneth Fischer pointed out that the standard time for surgery is within 24 hours of the onset of the neurological deficit. Fischer also testified that many patients who presented with Traveler's condition—back pain without neurological deficit—will resolve itself within 48 hours with conservative treatment. Fischer also testified that since Traveler's condition had not worsened since Nov. 29, additional conservative treatment was warranted. He added that Traveler wasn't in an emergency situation the morning Nov. 30 when Traveler had the full blown herniation and loss of neurological function.