

■ \$1.1 MILLION SETTLEMENT

Parents agree to settlement after son dies in crash

**WRONGFUL DEATH,
MOTOR VEHICLE COLLISION**

- **Venue:** Jefferson County Circuit Court
- **Case Number/Date:** 13JE-CC00345/April 15, 2013
- **Judge:** Nathan B. Stewart
- **Insurer:** American Family Mutual Insurance Co.
- **Caption:** Mitchell Benoist and Debra Benoist v. Jordan Domenick
- **Plaintiffs' Attorneys:** Michael P. Corrigan and Matthew J. Padberg, Padberg, Corrigan & Appelbaum, St. Louis
- **Defendant's Attorney:** Gene S. Hou, American Family Mutual Insurance Co., Maryland Heights

BY DONNA WALTER

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The parents of a young man killed in a T-bone car accident have agreed to settle their claims against the driver of the car their

He was 23-year-old veteran of war in Afghanistan

son was riding in for \$1.1 million.

Logan Benoist, 23, was a passenger in a 2009 Nissan Altima that Jordan Domenick was driving on April 23, 2012. Domenick tried to make a left into Good News Community Church in Festus from U.S. Highway 61, the plaintiffs' lawyer, Michael Corrigan, said. But Domenick turned in front of an oncoming vehicle, a Lincoln Navigator, that Robert Killgore was driving. Killgore's SUV hit the sedan's passenger side, and Benoist died at the scene.

"He was a wonderful person who was very well-liked in the community," Corrigan, of Padberg, Corrigan & Appelbaum in St. Louis, said in a telephone interview. He "was a veteran from the Afghan war, had come



Michael P. Corrigan



Matthew J. Padberg

back home and was planning on going to the FBI, serving his country, et cetera."

Joining the FBI was Benoist's long-term goal, the lawyer said. Benoist had graduated from the Mineral Area Police Academy in 2008 and then served the Army Reserves

overseas until February 2010, Corrigan said. At the time of his death, he was living at his parents' home in Festus and working in the restaurant industry.

Jefferson County Circuit Judge Nathan B. Stewart approved the wrongful death settlement on April 30. Domenick's insurer, American Family Mutual Insurance Co., paid the policy limits, and the suit was filed April 15 only for the purpose of approving the settlement. Because Benoist was single and had no children, his parents, Mitchell and Debra Benoist, are the only class members entitled to sue under Missouri law.

Corrigan said claims against the other driver are still ongoing.

Gene S. Hou, an in-house lawyer for American Family, said his only role was to get court approval for the settlement. He had no other comments. **MO**

■ \$100,000 SETTLEMENT

Insurer settles claim with Excelsior Springs widow

**WRONGFUL DEATH/
MOTOR VEHICLE ACCIDENT**

- **Venue:** Clay County Circuit Court
- **Date:** Feb. 28, 2013
- **Insurer:** Liberty Mutual Insurance
- **Caption:** Ellen Schoettger v. Liberty Mutual Insurance
- **Plaintiff's Attorneys:** Stephen R. Bough, The Law Offices of Stephen R. Bough, Kansas City; Jared A. Rose, The Law Office of Jared A. Rose, Kansas City
- **Defendant's Attorney:** None

BY ALAN SCHER ZAGIER

Special to Missouri Lawyers Weekly

The widow of a 54-year-old Excelsior Springs man killed in a November 2012

Analysis showed man swerved to avoid something on road

car crash in rural Clay County has settled a claim against the couple's insurer for \$100,000.

According to a Missouri State Highway Patrol report plaintiff's attorney Stephen Bough provided, David Schoettger was traveling south on Route JJ south of its intersection with Route H when his 1999 Mercury Cougar skidded off the right side of the road and into a ditch. The car flipped, and Schoettger was ejected from his car.

The patrol's skid-mark analysis deter-



Stephen R. Bough



Jared A. Rose

mined that Schoettger swerved to avoid "something on the roadway." Bough said that further investigation suggested his

client's husband was attempting to avoid an approaching car that had crossed the centerline while cresting a hill.

The attorney said Liberty Mutual's uninsured motorist policy requires hit-and-run claims to prove actual physical contact, despite a state law stipulating that uninsured coverage exists regardless if contact is made. A Liberty Mutual adjuster did not respond to an interview request.

The claim was settled in late February, insurance company records Bough provided show. The \$100,000 paid out by Liberty Mutual consisted of two equal, stacked payments of \$50,000 for each car listed on the policy. **MO**

■ DEFENSE VERDICT

Grandmother responsible for her own fall, jury finds

PREMISES LIABILITY

- **Venue:** St. Louis County Circuit Court
- **Case Number/Date:** 11SL-CC03565/June 19, 2013
- **Judge:** Michael T. Jamison
- **Plaintiff's Expert:** Donald A. Koppay, St. Louis (accident reconstruction)
- **Defendant's Expert:** Arthur D. Bond III, St. Louis (accident reconstruction)
- **Last Pretrial Demand:** \$90,000
- **Last Pretrial Offer:** \$5,000
- **Caption:** Barbara Contestabile v. Maplewood-Richmond Heights School District
- **Plaintiff's Attorney:** Jeffrey P. Gault, Law Offices of Jeffrey P. Gault, St. Louis.
- **Defendant's Attorney:** Joshua Engelbart, Buckley & Buckley, St. Louis

Plaintiff fractured pelvis when she fell into conversation pit

BY MELISSA MEINZER

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A woman who fractured her pelvis in a fall at an elementary school was completely to blame for her injuries, a jury in St. Louis County determined.

Barbara Contestabile, 65, was visiting her grandchildren's school to look at science projects on display in the library. The library, in the Maplewood-Richmond Heights School District, includes a feature called a "kiva," or a conversation pit. The kiva is a recessed area in the floor, with steps and risers for seating.



Joshua Engelbart

Contestabile fractured her pelvis when she fell into the kiva. She demanded \$90,000 from the school district. The district initially offered \$5,000, with no further offers made.

Defense attorney Joshua Engelbart said the plaintiff had been in the library more than 20 times.

"She knew that the kiva was there," Engelbart said. He said Contestabile

claimed the kiva should have had some kind of protective guardrail. The kiva and the surrounding floor have sharply contrasting carpet colors, he said.

Contestabile's version of events differed in deposition and at trial, Engelbart said. While being deposed, he said, Contestabile said she was trying to enter the kiva when she fell. At trial, he said, Contestabile said she was walking toward the school librarian and fell.

Her attorney, Jeffrey P. Gault, declined to comment on the case other than to confirm facts provided by Engelbart.

Contestabile filed a motion for a new trial, but the judge overruled it. **MO**

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