

Missouri Lawyers WEEKLY

www.molawyersmedia.com

MODOT shares blame in fatal auto collision

But arbitrators find driver was mostly at fault



Wes Shumate



Scott S. Bethune

BY MIKE TRASK

mike.trask@molawyersmedia.com

The state Department of Transportation shared blame for a highway accident that killed a 21-year-old woman and her grandmother, an arbitration panel found.

The panel awarded more than \$1 million in damages for the family's loss, but it also found the young woman, who was driving, 80 percent at fault, significantly knocking down the amount owed.

Wilfred and Sandra Boals'

daughter died in the Camden County accident on July 30, 2008. Bonnie Boals, 21, was driving her grandmother's 1998 Ford Windstar. She and her grandmother, Shirley Thaxton, were on their way to Camdenton to celebrate Thaxton's birthday with other relatives, the family's attorneys said.

Bonnie Boals was headed west on two-lane Business Park Road and came to a stop at the road's intersection with U.S. 54, said Wes Shumate, the Boalses' attorney.

She started to cross the two northbound lanes of the divided highway to reach the highway's southbound lanes, Shumate said, when a large box truck struck the minivan, killing her and her grandmother. The truck belonged to Fare Foods, an Illinois company, and was carrying produce. The truck driver wasn't found at fault,

Shumate said.

Bonnie Boals' parents filed a wrongful death suit in 2010, alleging the Missouri Department of Transportation designed a dangerous intersection. State law allows plaintiffs to take cases against the transportation agency to arbitration, and the pair decided to do so to speed up the case's outcome, he said.

"She lost two generations of her family," Shumate said of Sandra Boals. "She needed some closure."

The plaintiffs claimed the sight lines were inadequate at the intersection and that the speed limit on U.S. 54 was too high on that particular stretch. Shumate said MODOT lowered the highway's speed limit there from 65 mph to 55 mph shortly after the accident.

Melinda Grace-Beasley, an attorney with the state transportation agency, didn't return calls

seeking comment by deadline.

At the time of the accident, a hill blocked Bonnie Boals' vision so she couldn't see the oncoming truck, Shumate alleged.

MODOT claimed the sight lines were adequate, and that Bonnie Boals had sufficient knowledge of the potential dangers of the intersection, Shumate said.

The arbitration panel awarded \$1 million for Boals' death but reduced it by \$800,000 to account for her share of fault for the crash. Arbitrators also awarded \$200,000 for the wrongful death of Thaxton, 72.

Shumate said MODOT has changed the intersection's layout so drivers no longer can attempt to do what Boals tried to do when she crashed and died. He said her parents were pleased that the agency made changes to the intersection. **MO**

\$1.2 million arbitration award

WRONGFUL DEATH

Venue: Camden County Circuit Court

Case Number/Date: 10CM-CC00110/Jan. 11, 2012

Arbitrators: Skip Walther, Jim Newberry and Randy James

Plaintiffs' Expert: Andrew Ramisch, Montgomery Village, Md. (engineering/highway safety)

Defendant's Expert: Daren E. Marceau, Cary, N.C. (engineering/highway safety)

Allocation of Fault: On claim for driver Bonnie Boals' death: 80 percent to Boals, 20 percent to Missouri Department of Transportation; on claim for passenger Shirley Thaxton's death: all fault to MODOT

Caption: Sandra Boals and Wilfred Boals v. Missouri Highways and Transportation Commission

Plaintiffs' Attorneys: Wes Shumate and Scott S. Bethune, Davis, Bethune & Jones, Kansas City

Defendant's Attorney: Melinda Grace-Beasley, Missouri Department of Transportation, Jefferson City