

# Settlement reached in fatal car crash lawsuit: Plaintiffs alleged

Missouri Lawyers Media, Apr 30, 2010 by Angela Riley

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Dram shop experts helped the families of four people an off-duty Sunset Hills police officer killed in a car crash reach a settlement with the officer and the restaurant/bar that provided the officer alcohol while she allegedly was intoxicated.

The settlement against Christine Miller and O'Leary's Restaurant and Bar totaled \$2.3 million. Miller agreed to pay the families a \$300,000 settlement - or \$45,000 each and \$75,000 in attorneys' fees. Miller's attorney Daniel Wilke, of Wilke & Wilke, and O'Leary's attorney Victor T. Avellino, of Boggs, Avellino, Lach & Boggs, declined to comment.

O'Leary's paid the families \$2 million from an insurance policy. The families each received a \$100,000 cash payment and \$186,375 structured settlement from the restaurant. Attorney Stephen Schultz will receive 33 percent of the award as part of a contingency fee.

The lawsuit accuses O'Leary's of serving Officer Christine Miller alcohol while she was visibly intoxicated. O'Leary's is on South Lindbergh Boulevard less than a quarter-mile from the police station.

By allegedly serving Miller while intoxicated, O'Leary's violated the state's "dram shop law," the plaintiffs said. The law holds bars liable if they sell liquor to minors or someone who is already drunk.

The lawsuit's dram shop count against O'Leary's alleges the restaurant was reckless in its supervision of Miller and knew she was intoxicated but did not call a cab or make sure she did not operate her car.

According to the criminal complaint filed against Miller, her blood alcohol content (BAC) was 0.169 nearly three hours after the crash and 0.154 four hours later. The legal limit is 0.08.

Schultz noted a high burden of proof exists in dram shop cases, but his experts were able to say that given her BAC levels at the time of the accident, Miller would have met the statutory definition of being a "visibly intoxicated" person at the bar earlier that evening.

"These toxicologists say that the BAC level of 0.16 is triple to four times the legal limit, when it looks like to us that it's just twice the legal limit," Schultz said. "As you drink, the faster you get drunk, and it's impossible, even for a skilled drinker, to conceal that they're drunk at such high levels."

Schultz said police obtained Miller's credit card receipts from O'Leary's indicating she bought a lot of drinks. Officers also interviewed employees at other nearby bars and found she didn't drink there.

Since there was a BAC reading after the accident and the plaintiffs knew what alcoholic beverages Miller consumed, their experts were able to calculate what Miller's BAC would have been at the time she was at O'Leary's, Schultz said.

The accident took place at about 1:45 a.m. March 21. Miller was driving east on the wrong side of Dougherty Ferry Road toward Des Peres Road. The car holding the victims turned onto Dougherty Ferry and was hit nearly head-on by Miller. Miller's Mitsubishi Eclipse and the plaintiffs' Honda Accord were "completely pulverized," Schultz said.

Priya Muppavarapu, 22, Anusha Anumolu, 22, Satya Chinta, 25, and Anitha Veerapaneni, 23, died in the wreck. The driver of the car, Nitesh Adusumilli, 27, and Miller were seriously injured.

Adusumilli also filed the suit against Miller. Adusumilli suffered from a head injury, a fractured rib, liver trauma and lung contusions, according to his lawsuit. He received \$45,000 from Miller. He also received a \$100,000 cash payment and an \$86,000 structured settlement from O'Leary's, Schultz said.

Adusumilli was engaged to Veerapaneni. They would have been married on May 14, 2009. All were close friends and were returning home after bowling when the accident happened, Schultz said. Three of the passengers were students at Eastern Illinois University and were pursuing master's degrees in information technology.

In June, Miller was charged with four counts of first-degree involuntary manslaughter and one count of second-degree assault. Once the charges were filed, Miller was suspended from the Sunset Hills Police Department without pay, according to a release from Police Chief William LaGrand.

\$2.3 million settlement

Wrongful death/ dram shop liability

**Court:** St. Louis County Circuit Court

**Case Number/Date:** 09SL-CC02537/Feb. 22, 2010

**Judge:** Maura McShane

**Plaintiffs' Experts:** Elizabeth T. Trendowski, Lancaster, Pa. (dram shop liability); Christopher Long, St. Louis (forensic toxicology); Terry Martinez, St. Louis (toxicology and pharmacology)

Special Damages: \$30,000

**Insurer:** Confidential

**Plaintiffs' Attorneys:** Stephen R. Schultz and Joshua P. Myers, St. Louis

**Defendants' Attorneys:** Victor T. Avellino, Boggs, Avellino, Lach & Boggs, St. Louis, for O'Leary's Restaurant; Daniel E. Wilke, Wilke & Wilke, St. Louis for Christine Miller

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### **Plaintiff Expert: Dram Shop, Elizabeth T. Trendowski**

As the founder of SMART, a national certification program for the safe service of alcohol, Liz is a leader in the hospitality industry. Liz has trained more than 20 thousand participants including alcohol servers, managers, security, liquor agents, insurers, and police officers in the safe service of alcohol. Liz currently teaches bar and beverage management at the University of New Haven. Liz has provided expert testimony in cases for both plaintiff and defense throughout the country.

**Expert Bio:** <http://www.robsonforensic.com/Dram-Shop-Expert/Trendowski.aspx>

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