

# SOUTH CAROLINA Lawyers Weekly

Part of the BRIDGETOWER MEDIA network

OCTOBER 19, 2022

## VERDICTS & SETTLEMENTS

### Teen plaintiffs settle for \$10M in UTV rollover

■ Heath Hamacher

ON THE EVE of “certain trial,” two plaintiffs have settled their negligence claims after a utility terrain vehicle (UTV) crash left one teenager dead and the other seriously injured.

The plaintiffs, one of whom died in the rollover crash, were 14- and 15-year-old girls out on a rural farm property to “enjoy a weekend in the outdoors with friends,” their attorneys said. The plaintiffs were represented by Douglas Jennings and John Dodds IV of Yarborough Applegate in Charleston;



Douglas Jennings

John Fulda, Cheryl Perkins, Charles Whetstone, and Amanda Shuler of Whetstone Perkins & Fulda in Columbia; and Ronnie Sabb of Sabb Law Group in Kingstree.

Many of the case’s details, including names of the parties and defense counsel, were withheld pursuant to a confidentiality agreement.

In an email to Lawyers Weekly, the plaintiff’s attorneys said that the plaintiffs were accompanied by one adult parent—the property owner—the 14-year-daughter of whom was driving the newly purchased UTV. The children were not given helmets or instructed how to operate the UTV, the attorneys said, and instructions conspicuously marked on the UTV noted that no one under 16 years old should operate the vehicle. Neither the driver nor the passengers were restrained, the attorneys said, and the driver’s seatbelt was buckled and tucked behind the children to bypass the manufacturer’s speed limitation.

The attorneys said that when the UTV rolled over, one of the girls was thrown from the UTV and died at the

scene. The other passenger was airlifted to the hospital with serious injuries.

The injured plaintiff and the estate of the deceased plaintiff brought separate negligence claims against the teenage driver, her parents, and the LLC that owned the farm and the UTV.

The attorneys said that an important legal issue in the case was whether the All-Terrain Vehicle Safety Act (also known as Chandler’s Law) applies to UTVs. The act mandates no passengers for children under 16 years old without driver’s licenses, requires helmets and goggles for children 15 and younger, and prohibits those under 16 from operating the ATV pursuant to the warning label attached by the manufacturer. Plaintiffs’ attorneys argued that lawmakers intended for the law to apply to UTVs “given technological advancements that have made the popularity of UTVs increase since Chandler’s Law was passed.”

The attorneys said that the minor defendant’s parents retained a child psychologist in hopes of preventing their daughter from participating in discovery and trial, arguing that the participation would cause her undue emotional trauma. Approximately two months before trial, the minor was ordered to undergo an evaluation with a court-appointed psychiatrist regarding the issue. But the case settled shortly after the order, the plaintiffs’ attorneys said.

The global settlement represented the full policy limits of all liability and umbrella policies insuring the defendants and a \$2.1 million contribution by the defendants, the attorneys said. The estate of the deceased plaintiff settled for \$7.5 million and

#### SETTLEMENT REPORT- NEGLIGENCE

**AMOUNT:** \$10 million

**INJURIES ALLEGED:** Death to one plaintiff and injuries to a second plaintiff

**CASE NAME:** Withheld

**COURT:** Withheld

**MEDIATOR/JUDGE:** Withheld

**DATE OF SETTLEMENT:** August 2022

**INSURANCE CARRIER:** Withheld

**ATTORNEYS FOR PLAINTIFFS:** Douglas Jennings and John Dodds IV of Yarborough Applegate in Charleston; John Fulda, Cheryl Perkins, Charles Whetstone, and Amanda Shuler of Whetstone Perkins & Fulda in Columbia; and Ronnie Sabb of Sabb Law Group in Kingstree

**ATTORNEY(S) FOR**

**DEFENDANT:** Withheld

\$2.5 million was allocated to the surviving plaintiff.

Jennings said that the case dealt with the worst kind of tragedy—the loss of a child.

“There was a lot of anger and grief involved and our clients are pleased the case resolved prior to picking a jury,” Jennings said.

Plaintiffs’ attorneys said that the deceased plaintiff was a stellar student and the “crutch of her family.” She was the primary caregiver of her twin brother, who has developmental disabilities. She dreamed of becoming a psychiatrist so that she could better care for her brother and treat others with similar disabilities, the attorneys said.

“This young woman had such a positive impact on the world in her short 15 years of life,” Fulda said.