



HUBBARD & KURTZ

2000-2006

VERDICTS & SETTLEMENTS

- **2005 Trial --- Good v. Cox** **\$15,000,000** **verdict**
- **2004 Trial --- Swope v. Johnson** **\$30,000,000** **verdict**
[Largest 2004 verdict in the State of Missouri]
- **Other Wrongful Death Cases**
- **Medical Malpractice Cases**
- **Civil Rights Cases**
- **Products Liability Cases**
- **Other Torts Cases**

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VICTIM'S FAMILY HOPES TO SEND MESSAGE TO DRUNKEN DRIVERS

Jury awards parents \$15 million in wrongful-death suit

By LINDA MAN
and DONALD BRADLEY
The Kansas City Star

It was a sum so large even plaintiffs Marsha and Billy Good Jr. were astounded at the damages Jackson County jurors awarded them for their son's death.

"We didn't ask for that," said Marsha Good of Ray County, about

the \$15 million the jury awarded Thursday. "They really took the case to heart and put themselves in my and my husband's position.

"How do you value a life and all the love they (the parents) aren't going to get anymore?"

Jeff Good, 17, was killed in 2002 when Blue Springs resident William Cox, who was driving drunk on Missouri 210 in Ray County, struck

the vehicle Good was in nearly head-on.

As a result of the wreck, Cox, 57, was sentenced to five years in prison for involuntary manslaughter and second-degree assault. His parole date is in 2006.

The jury's award was for actual damages, which cover, among other things, the loss of companionship, comfort, guidance and

support. The Goods did not ask for punitive damages, and it's questionable whether they will get the entire damage award.

Cox would not comment from his jail cell in Cameron, Mo. He was a former bus driver for the Kansas City Area Transportation Authority, said John Kurtz, attorney for the

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JURY: Lawsuit in crash brings \$15 million verdict

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Goods.

Cox's attorney could not be reached for comment Friday.

The Goods said they filed the lawsuit because they felt Cox's criminal sentence was too light.

"The guy only got a five-year sentence," Billy Good said. "Jeffrey was 17 years old. He was a kid.

"I think they (the jury) sent a message out to drunk drivers."

The Goods said they particularly were angry when Cox, in a videotaped interview, responded to the question of: Is there anything you want to say to the family?

The Goods said Cox shrugged his shoulders and said: "I wish it didn't happen, I guess."

According to Jury Verdict Research, an Ohio-based organization that gathers legal data, the national average in 2004 for wrongful-death claims involving minor males was \$937,000. The average awarded for minor females was \$929,000.

"The award was very high for Missouri," Ken Jones, publisher of



Jeff Good

Missouri Lawyers Weekly magazine, said Friday from his office in St. Louis. "The \$15 million would have been the fourth-highest in Missouri last year."

The biggest jury award in Missouri in 2004 — a \$30 million judgment — also was won by Kurtz. That case was against a 30-year-old Kansas City man found responsible for his wife's stabbing death.

The Goods said their son was full of love and wasn't afraid to hug.

"He was the peacemaker whenever an argument broke out," Mar-

sha Good said. "He was affectionate. By the end of the case, they (the jurors) knew who Jeffrey was."

Kurtz said he hoped the \$15 million verdict would make drunken drivers pause, but doubted whether all the money would materialize.

"It's not coming anytime soon," Kurtz said. "There's not \$15 million ready and waiting to be paid."

To reach Linda Man, police and courts reporter, call (816) 234-7809 or send e-mail to lman@kcstar.com.

Murdered Woman's Parents Win \$30M Vs. Son-In-Law Husband Was Acquitted In Criminal Trial

By AARON BROWN

In a case that invites comparison to the OJ Simpson saga, the parents of a murdered Kansas City woman won a \$30 million verdict against their son-in-law, who previously was acquitted in a criminal trial.

Outraged at the acquittal — despite Todd Johnson's previous six-page confession — Brandy Swope Johnson's family turned to the civil system for justice.

"The decision in the criminal trial was just devastating to the parents," said the plaintiffs' attorney, John Kurtz of Kansas City.

"And in most cases like this, there's little else for the family to do but walk away. But they had the courage to take it back to trial, to go through it all over again, even knowing that the decision of the first jury would be fully in evidence."

The Platte County jury reached its verdict in little more than two hours after a week-long trial, awarding \$15 million in actual damages and \$15 million in punitives.

"Hearing the jury bring back the verdict, and having them line up to embrace them afterwards, was deeply gratifying for this girl's parents," said Kurtz.

The May 21 verdict came in *Swope, et al. v. Johnson, et al.* A verdict report on the



case appeared in the May 31 issue.

Murder

Brandy Swope and Todd Johnson had been married for two years when Brandy was murdered at their Kansas City, North apartment on Dec. 19, 1998. She was stabbed to death, suffering 26 separate knife wounds all over her body.

Police were called to the scene by Johnson, who first claimed that Brandy committed suicide. He later said that she had been killed while he was out with his girlfriend, Revonna Nutt, and that he found her body when he returned to the apartment after having sex with Nutt.

Johnson was eventually taken to the police station, where an interrogation began around 7:30 a.m., Kurtz said. Later in the day, Johnson admitted that he killed Brandy, and wrote out a six-page confession in which he said that he was sick of her, was sick of her poor housekeeping, and had grabbed a knife and stabbed her to death.

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He also admitted that his relationship with Nutt had been a source of conflict. He said Brandy had confronted him on at least two occasions after she had found strands of a woman's hair in their apartment.

Criminal Trial

But Johnson subsequently recanted his confession and began to point a finger at Nutt, Kurtz said. And the case took an unexpected turn when Johnson received a letter while he was in jail that purported to be from the real killer. The letter contained a piece of cloth stained with his wife's blood that apparently came from the murder scene.

The prosecution brought the letter into evidence, attempting to argue that it was sent by Johnson's father, who the prosecution said had access to the murder scene and a motive to try to create the impression that someone else had committed the crime.

But a defense expert in "attribution analysis," who previously had helped to connect Ted Kaczynski to the writings of the Unabomber, testified that the letter was written by Nutt.

Johnson's criminal attorney, Fred Duchardt, used that testimony, along with the finding of a strand of Nutt's hair in Brandy's right hand, to argue that Nutt was the killer.

Nutt took the Fifth and did not appear at the trial, Kurtz said, leaving a perfect "empty chair" for the defense to exploit.

In addition, a defense expert testified that Johnson had been suffering from sleep deprivation and was unable to think clearly when he wrote out his confession.

The jury acquitted Johnson in a December 2001 trial.

Civil Case

Brandy's parents filed a wrongful death

suit against both Johnson and Nutt. The first challenge of the civil case was serving the lawsuit on Johnson, Kurtz said. Members of Johnson's family, who had funded his criminal defense, made it clear they were unwilling to assist in locating him.

Eventually a private investigator was appointed as a special process server, and Johnson was successfully served in January 2003. Shortly thereafter, Nutt testified in a deposition that she had communicated with Johnson while he was avoiding service of process, and that he had told her that avoiding service "was a game to him," Kurtz said.

Initially, Johnson was represented in the civil case by a Kansas City area attorney who never entered his appearance and eventually withdrew from the case.

In December 2003, Johnson informed the court that he intended to represent himself, a decision that proved to be very damaging even after he brought in Duchardt shortly before the civil trial was set to begin.

Duchardt quickly moved for a change of judge and for a continuance, and indicated he intended to call the experts he had used in the criminal trial.

But Kurtz filed a motion to prevent the last-minute addition of the experts because he said Johnson never answered interrogatories sent 15 months earlier in

which he had been asked to name his experts.

Kurtz also filed a motion to exclude the letter sent to Johnson while he was in prison, arguing that it was hearsay and lacked indicia of trustworthiness.

The trial judge, Larry Harman, granted both of Kurtz's motions, virtually guaranteeing that the civil trial would be very different from the criminal trial, Kurtz said.

"The judge essentially said, 'You can't conduct litigation this way,'" Kurtz said. "You can't spend more than a year avoiding service, fail to answer interrogatories, and produce witnesses at the last minute."

At the five-day trial, Kurtz brought in the police officers from the scene, the interrogating officers, Brandy Swope's father, and several of her friends. He also called Todd Johnson, whose testimony Kurtz described as "cocky," and Nutt.

At least one friend testified that Brandy had told her that Johnson threatened her.

According to the friend, Brandy said, "If I end up dead, he's the one that did it." Brandy also said, according to a witness, that Johnson threatened to kill her if she ever got pregnant.

The plaintiffs also provided an alternative explanation for the presence of Nutt's hair in Brandy's hand, Kurtz said.

"I asked him if he remembered her con-

fronting him about the mistress's hair before, and he said yes," Kurtz said. "And then I asked if she had been holding the strand of hair in her right hand those times, and he said that she had."

"It's certainly possible that what we had there was the aftermath of her confronting him a third time."

The jury returned a defense verdict for Nutt, but hit Johnson for \$30 million.

Defense

Duchardt said he has filed a motion for a new trial and would probably appeal if the motion is denied.

"The jury's decision in this case was not surprising, because the jurors were not able to hear all of the information that we were able to present at the criminal trial," he said. "The testimony of our experts, and the letter, were crucial to the acquittal in the criminal trial."

"The decision to exclude them really broke the case for the plaintiffs."

Brent Winterberg of Kansas City, who represented Nutt in the civil trial, said, "We are happy the plaintiffs received the justice they sought and Johnson was properly identified as the killer."

According to Winterberg, there "simply was no evidence Revonna Nutt had anything to do with the murder of Brandy Swope Johnson. It would not have been possible for Ms. Nutt to carry out the murder, get cleaned up and meet Mr. Johnson a very short time later."

"On the other hand, there was overwhelming evidence of Todd Johnson's liability for his wife's death, not the least of which was his confession. You have to provide the jury with at least a plausible explanation of why the physical evidence does not match the testimony. [Neither] Mr. Johnson, nor his attorney, were able to explain crucial pieces of physical evidence that did not match Mr. Johnson's testimony."



"It's certainly possible that what we had there was the aftermath of her confronting him a third time."

John Kurtz, Kansas City
Attorney for Plaintiff

WRONGFUL DEATH CASES

Deceased Person(s)

3 fathers/husbands approx.
30 years of age

Honorably discharged WWII
veteran, Purple Heart winner,
husband and father

46 year-old husband and
father of three

2 mothers, 4 children & friend

Circumstances of Death

3 Deaths When Boat Sank

14' bass boat manufactured by Champion Boats, Inc. had insufficient flotation foam and did not meet U.S. Coast Guard standards. When it sank, all three men died of hypothermia/drowning.

Murder in Veterans Hospital by Nurse

Nurse murdered the patient within 17 hours of hospital admission. Registered nurse at VA Hospital in Columbia, Missouri had been negligently retained in his position.

Police Raid of Wrong House

Man was at home asleep with his wife and daughter when raid by three law enforcement agencies (25 officers) in middle of night led to his being shot and killed.

Seven Deaths in House Fire

Two mothers, four children, and a guest all died due to smoke inhalation in a re-worked duplex. Worst house fire in history of Kansas City.

Court

Shawnee County, Kansas
District Court. Lead counsel
was Topeka attorney John J.
Bryan.

United States District Court
for the Western District of
Missouri
204 F. 3d 815 (8th Cir. 2000)

United States District Court
for the District of Kansas

Jackson County, Missouri
Circuit Court

MEDICAL MALPRACTICE CASE

Plaintiff(s)

Circumstances of Case

Court

74 year-old WWII veteran

Severed Catheter of Dialysis Patient

Dialysis nurse severed the patient's Tessio catheter, causing major blood loss, brain stem infarct, Code 1 unresponsiveness, seizures, prolonged hospitalization, and permanent life changes.

Jackson County, Missouri
Circuit Court

6 year-old boy

Buried Penis Due to Circumcision

Circumcision of infant boy led to retraction of penis into his body. He was left with no external penis. This is known to result from negligently performed circumcisions.

Saline County, Kansas
District Court

45 year-old husband and father

Surgery-Caused Paralysis

Patient walked into hospital for odontoid surgery. During surgery, impact was made with spinal cord. At that moment, he became a quadriplegic for life.

Jackson County, Missouri
Circuit Court

Widow and daughter of
nursing home resident

Unsafe Nursing Home Equipment

Patient was placed into a bed with defective bed rail. This led to a fractured hip which, in turn, led to death.

Wyandotte County,
Kansas District Court

CIVIL RIGHTS CASES

Plaintiff(s)

Municipal Police Officer

25 year-old man, former
Capt. of Kansas State
Wildcat Football Team

Circumstances of Case

Retaliation for Reporting Misconduct

Police officer was terminated by city after disclosing misconduct of police chief and other city officials, specifically including the falsification of police documents.

False Arrest and Race Discrimination

African-American man entered bank to conduct business. Police were summoned to detain him in the parking lot. United States District Judge condemned this as race discrimination in a 39-page opinion.

Court

United States District Court
for Western District of
Missouri

United States District Court
for the District of Kansas

PRODUCTS LIABILITY

Plaintiff(s)

Circumstances of Case

Court

22 year-old man

Amputation of Foot and Ankle

Paver equipment caused young man to lose his lower leg through traumatic amputation by auger. Lawsuit was against manufacturer.

Jackson County, Missouri
Circuit Court

35 year-old husband
and father

Amputation of Leg Above Knee

Grain elevator worker lost leg in below-floor auger. Lawsuit was against manufacturer of product as well as installers.

Kansas State Court

Husband and father

Defective Catwalk

Man suffered back fractures due to defective catwalk. In particular, the safety chain was improperly fastened. Lawsuit was against engineer, contractor and fabricator.

Atchison County, Kansas
District Court

OTHER TORTS

Plaintiff(s)

Circumstances of Case

Court

Mother and father and two children

Misrepresentation About Flooding History

Home sellers misrepresented flooding nature of area and home. Children almost drowned during flood.

Johnson County, Kansas
District Court

Young Cuban immigrant

Bondsman's Seizing Wrong Person

Bonding company took brother of bonded person into custody, despite protestations as to true identity. The first trial yielded a favorable verdict for actual damages. The Missouri Court of Appeals ordered a second trial on punitive damages only, and those were awarded.

Jackson County, Missouri
Circuit Court
3 S.W. 3d 891 (Mo. App.
W.D. 1999)

2 deputy sheriffs

Bondsman Framed Sheriff's Deputies

Criminal accused deputies of beating him, but later admitted that bondsman had done it. Bondsman told the criminal that he needed to say the police beat him.

Cass County, Missouri
Circuit Court

Professional woman and mother

False Accusations Toward Nurse

Nurse was subjected to arrest warrant despite fact that insufficient funds check had been paid. She was taken into custody, transferred between law enforcement agencies, and given a court date before case was eventually dismissed.

Pettis County, Missouri
Circuit Court