

# Missouri Lawyers

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## WEEKLY

## Confidential settlement ends wrongful death suit

*Family sued driver, employers after five people died in 2005 crash near six flags*



Stephen Woodley



Joan Lockwood

### ANGELA RILEY

The survivors of five family members killed by a dump truck driver in a fiery crash near Six Flags have reached a confidential settlement with the driver's employers.

On July 29, 2005, Angela Huckaba, 30, was driving two of her children — Joshua, 7, and Jacob, 9 — and her two siblings — Amy Willingham, 18, and Brett Willingham, 14 — on westbound Interstate 44 to Six Flags. The van had stopped with traffic at the Six Flags exit when it was hit from behind by a dump truck with a full load of gravel. According to the accident report filed by the Missouri State Highway Patrol, Thomas Miskel, the dump truck's driver, failed to stop with traffic, ramming into the Huckabas' van.

The van became lodged underneath the dump truck and was rammed into other cars, eventually running into a chain-link fence and catching on fire. All five family members were pronounced dead at

the scene.

Witnesses told police that Miskel did not see traffic slowing in front of him until it was too late.

A dozen other people in other vehicles were hurt, but Miskel was not seriously injured.

Angela Huckaba and her children were survived by her husband, Shawn, and another child, Alex, who was away at summer camp at the time of the accident. Angela, Amy and Brett were survived by their parents, Donald and Rita Willingham.

This stretch of Interstate 44 has a long history of serious accidents because of traffic backups on the highway from Six Flags. Five years before, a family of five, the Vonder Haars, from Breese, Ill., were killed along this same stretch. A few weeks after the accident killing the Huckabas, a tour bus driver and another person were killed near the same spot.

Shawn Huckaba and the Willinghams filed five wrongful death suits against Miskel and his potential employers in St. Louis County Circuit Court in August 2005. The court later consolidated the five suits.

The lawsuits alleged that the Miskel was negligent, drove at excessive speeds and failed to brake or stop in time to miss a serious impact with the van.

The Missouri Highways and Transportation Commission, Eureka and Six Flags were also named in the suits.

Eureka and Six Flags were removed from the suits when Judge Carolyn Whittington approved their motions for summary judgment.

The Missouri Court of Appeals Eastern District in effect affirmed Whittington's approval of their motions for summary judgment. The court had affirmed St. Louis County Judge Robert S. Cohen's same judgment in the Vonder Haars' case.

The court determined that because the accident occurred on a federal highway that the Missouri Department of Transportation maintained and Six Flags and the city had no control over, the two were relieved of liability.

In September 2008, Miskel and all his alleged employers, Millstone Bangert, H&H Freight Services, Bourbeuse River Hauling, DLH Trucking and Corporate Resource Management, reached a confidential settlement with Shawn Huckaba and the Willinghams.

Only the claims with the Highways and Transportation Commission have not been resolved. According to Zachary Cartwright, senior litigation counsel with the commission, before the other parties had settled out of the lawsuit, the plaintiffs' requested arbitration for the Missouri Highways and Transportation Commission. That matter is still pending.

H&H Freight Services and DLH Trucking's attorney, Cheryl Callis, of Kortenhof & Ely, and Millstone Bangert's attorneys, Jeffery Nichols, of Wallace, Saunders, Austin, Brown and Enochs, and Victor Rouse, solo practitioner, declined to comment.

Plaintiffs' attorney Joan Lockwood declined to comment, and plaintiffs' attorney

Stephen Woodley, of Gray, Ritter & Graham, did not return calls by press time.

Corporate Resource Management attorney Jeffrey K. Suess, of Rynearson, Suess, Schnurbusch & Champion, said he thought the settlement was good for all parties. Corporate Resource Management was the payroll operation for DLH Trucking.

"My clients were satisfied," he said. "And I'm happy that [the plaintiffs] were able to resolve it. It was such a tragic accident."

Attorney Dean Gallego, of Wilke & Wilke, said he thought the settlement was successful for his clients, Miskel and Bourbeuse River Hauling.

"There wasn't a lot to argue in this case," he said. "It was a clear liability case. Really, all the main issues concerned other defendants. We got the best results that we could that [Miskel] had no personal liability."

In February 2006, Miskel was indicted for five counts of involuntary manslaughter, pleading not guilty. He faced up to 20 years in prison, four years for each count. He later changed his plea to guilty in November 2006 in exchange for probation.

Prosecutors say they accepted the plea bargain because Miskel had not been drinking or on drugs when the accident occurred. He was simply not paying attention.

Miskel was sentenced to one year but because he was in jail since his indictment he was released at the time of his guilty plea. He also was placed on probation for five years.

## Confidential settlement

### WRONGFUL DEATH

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

■ **Case Number/Date:** 2105CC-04448/ Sept. 15, 2008

■ **Judges:** Judge Carolyn Whittington

■ **Caption:** Shawn Huckaba, Donald Willingham and Rita Willingham v. Bourbeuse River Hauling, Millstone Bangert Inc. and Missouri Highway Transportation Commission

■ **Plaintiff's Attorneys:** Stephen Woodley and Joan Lockwood, Gray, Ritter & Graham, St. Louis

■ **Defendant's Attorney:** Cheryl Callis, Kortenhof & Ely, St. Louis, for H & H Freight Services and DLH Trucking; Jeffery Nichols, Wallace, Saunders, Austin, Brown and Enochs, Overland Park, Kan., and Victor Rouse, St. Louis, for Millstone Bangert; Jeffrey K. Suess, Rynearson, Suess, Schnurbusch & Champion, St. Louis, for Corporate Resource Management; Dean Gallego, Wilke & Wilke, St. Louis, for Thomas Miskel and Bourbeuse River Hauling; Zachary Cartwright, Missouri Highways and Transportation Commission