

conversion, illegal lockout in violation of the Texas Property Code, and malice. The plaintiffs tried to pierce the corporate veil against Rodriguez, but the court dismissed Rodriguez on directed verdict at the close of the plaintiffs' evidence.

According to Rodriguez's testimony, he had driven by and seen the door hanging open, and since the plaintiffs were not home, he concluded that they had abandoned the contents. Panorama also counterclaimed for nonpayment of rent, introducing a bounced check.

The plaintiffs said that Panorama had waived the rent by allowing them to miss payments in the past. They denied abandoning their property or leaving the door open, although they acknowledged that they spent the night before at their new rental house.

**INJURIES/DAMAGES** The plaintiffs claimed that the fair market value of the contents of the house was about \$30,000, plus unspecified sentimental value for numerous items, such as military keepsakes, family albums, and a family Bible, according to defense counsel. They also sought statutory damages of \$832 (one month's rent, plus a statutory penalty of \$500) for illegal lockout and unspecified punitive damages for malice. Panorama's assets were mainly its two houses, which the county had appraised at a combined \$107,000.

The defense argued that the plaintiffs' list of damaged items was padded, in terms of both quantity and quality of items. Also, the neighborhood was rough, and the defense argued that some of the items were probably stolen out of the backyard.

On its counterclaim, Panorama sought \$352 for one month's rent and \$900 in attorney fees through trial for prosecution of the counterclaim.

**RESULT** The jury found conversion, illegal lockout and malice by Panorama. The jury assessed actual damages of \$15,300, statutory damages of \$832 and punitive damages of \$10,000, a total of \$25,800.

The jury found no waiver of rent by Panorama and that the plaintiffs owed \$352 in rent. The jury also found \$900 in attorney fees for Panorama through trial, plus conditional appellate attorney fees. After these offsets, the plaintiffs' actual, statutory and punitive damages were \$24,548.

**BOTH PLAINTIFFS** \$15,300 fair market value  
\$500 statutory additional damages  
\$10,000 punitive damages  
\$25,800

**TRIAL DETAILS** Trial Length: 3 days  
Trial Deliberations: 6 hours  
Jury Vote: 5-1  
Jury Composition: 4 male, 2 female

**POST-TRIAL** Judge Jerry Lewis denied Panorama's motion for new trial.

Panorama also moved for Judge Lewis to throw out the punitive damages because the findings of malice and punitive dam-

ages were not unanimous. Judge Lewis granted that motion.

The final judgment is \$17,373, in favor of the plaintiffs. That amount consists of the Deatleys' actual and statutory damages, their prejudgment interest of \$591 and their court costs of \$117, minus the following amounts due Panorama: damages of \$352, attorney fees of \$900 and court costs of \$35.

-John Schneider

**DALLAS COUNTY**

**MOTOR VEHICLE**

**Wrongful Death — Hit and Run — Alcohol Involvement**

**Good Samaritans killed while attempting rescue**

**VERDICT** \$6,085,000  
**ACTUAL** \$6,108,667

**CASE** Shuki Josef (plaintiff), Joseph Andrew Wood, Individually, and Laura Wood, Individually and on Behalf of the Estate of Joseph Wood, Deceased, and as Next Friend of Joseph Julian Wood (Intervenors) v. Dwayne Lewis Goodrich and Green Star, Inc. d/b/a Silver City Cabaret, No. 03-1881-E

**COURT JUDGE** Dallas County Court at Law No. 5, TX  
**JUDGE** Mark Greenburg  
**NEUTRAL(S)** Glen Ashworth  
Rip Parker  
**DATE** 8/15/2006

**PLAINTIFF ATTORNEY(S)** Spencer G. Markle, The Mallia Law Firm, Houston, TX (Estate of Joseph (Joby) Wood, Joseph Andrew Wood, Joseph Julian (J.J.) Wood, Laura Wood)  
Anjel K. Avant, Kondos & Kondos, Richardson, TX (Shuki Josef)  
Brian S. Loughmiller, Loughmiller, Miller & Puhl, McKinney, TX (Demont Mathews)

**DEFENSE ATTORNEY(S)** Douglas D. Fletcher, Fletcher & Springer, Dallas, TX (Dwayne Lewis Goodrich)  
Jason Graham, Fletcher & Springer, Dallas, TX (Dwayne Lewis Goodrich)  
Laurie Elza, MacDonald Devin P.C., Dallas, TX (GMRI Texas LP)

## N O R T H E A S T

**William H. Hart**, Hart & Power, P.C.,  
Dallas, TX (Green Star Inc.)

**John H. House**, Burt Barr & Associates,  
Dallas, TX (D.C.G. Inc.)

**FACTS & ALLEGATIONS** At 2:15 a.m. on Jan. 14, 2003, Plaintiff Suki Josef, a hairdresser, and intervenors' decedents Joseph (Joby) Wood, 21, a house cleaner, and Demont Mathews were trying to extricate the driver of a car about half a mile north of the Walnut Hill overpass at I-35 Stemmons Freeway Northbound. The car had collided with an 18-wheeler and was burning. As they attempted the rescue, they were struck by a sports car driven by Dallas Cowboy defensive back Dwayne Goodrich. Matthews and Wood suffered fatal injuries.

Josef sued Goodrich alleging negligence and gross negligence. Wood's estate; parents, Joseph and Laura Wood; and 18 month-old son Joseph Julian Wood; and Mathews' estate and parents, Danny Ray and Delores Mathews, intervened.

Plaintiff's alleged that witnesses saw Goodrich's 745i BMW traveling northbound at up to 120 mph. As he approached the scene of the accident, where all five lanes were blocked, Goodrich pulled to his left and tried to squeeze between the burning car and a concrete median dividing the northbound and southbound lanes of traffic. He struck the left rear corner of the car on fire, then hit all three good Samaritans. The plaintiffs alleged that witnesses then saw Goodrich accelerate, fleeing the scene at up to 100 mph. Goodrich drove home and, with the help of a teammate, pushed the battered BMW into Goodrich's garage and shut the door. Fourteen hours later, Goodrich surrendered to police, giving a brief statement admitting that he was the driver.

The plaintiffs also sued Green Star Inc., operating as Silver City Cabaret, a topless bar in Dallas that Goodrich visited prior to the accident; D.C.G. Inc., operating as The Lodge Bar and Grill (a/k/a The Lodge), another topless bar, where Goodrich drank alcohol before going to Silver City Cabaret; and Green Star Inc., operating as an Olive Garden Restaurant, where Goodrich's evening allegedly began with dinner with a number of friends. The plaintiffs alleged violations of Sec. 2.02 of the Texas Alcoholic Beverage Code against the restaurant and bars. At the Olive Garden, the plaintiffs alleged, Goodrich drank two Long Island Iced Tea beverages and one Crown Royal and Coca-Cola. At about 9:30 p.m., the group went to The Lodge, where Goodrich allegedly drank two alcoholic beverage containing rum, vodka and pineapple juice. At about midnight, Goodrich and his companions moved to Silver City Cabaret, where they were served a bottle of champagne, several mixed drinks and beer.

Goodrich vigorously denied liability, testifying that he drove carefully and prudently behind another vehicle when it suddenly slammed on the brakes, giving him no choice but to try to pass it on the left. Accordingly, an accident reconstruction expert testified that the accident was not Goodrich's fault. Goodrich asserted affirmative defenses of sudden emergency, new and

independent cause and sole proximate cause of a nonparty.

Silver City denied that it served any alcoholic beverages to Goodrich and its employees did not see signs that Goodrich was intoxicated. It settled with the Mathews plaintiffs for a confidential amount.

The Olive Garden denied liability. It settled with the Mathews and the Wood plaintiffs for confidential amounts.

The Lodge settled with all plaintiffs for confidential amounts before trial.

Goodrich settled with Mathews plaintiffs for a confidential amount and the trial went forward with only Josef and the Woods plaintiffs.

#### **INJURIES/DAMAGES** *ankle; death; fracture, ankle*

Mathews was thrown 155 feet and died at the scene of the accident.

Joseph (Joby) Wood was thrown 145 feet, suffering fatal injuries and dying three hours later at the hospital. The ambulance bill was \$600.

Josef was clipped and suffered a shattered ankle. The defense stipulated that Josef incurred \$23,666.59 in medical specials.

Josef sought an unspecified amount of damages for future medical expenses; past lost wages and future lost earnings; and past and future disfigurement and physical impairment.

The plaintiffs sought an unspecified amount of damages for Wood's infant son, Joseph Julian, for future loss of companionship and society, loss of inheritance, exemplary damages, and past and future pecuniary loss and mental anguish.

Wood's parents each sought past and future pecuniary loss, loss of companionship and society, and mental anguish. Until a few months prior to the accident, the decedent and his infant son lived with the decedent's mother, and they worked together, cleaning new houses, getting them ready for occupancy. The decedent's father lived out of state, and had, for about 10 years.

Wood's estate sought damages for his pain and mental anguish, medical specials and funeral expenses.

**RESULT** Judge Mark Greenburg granted the Olive Garden a directed verdict as to Josef.

The jury found no liability on Silver City Cabaret .

The jury found that Goodrich was 100% liable. They also found that he was negligent and grossly negligent, and awarded damages as follows: \$755,000 for Josef; \$3.5 million for Joseph Julian Wood; \$550,000 for Laura Wood; and \$50,000 for Joseph Andrew Wood.

|                    |  |
|--------------------|--|
| <b>SHUKI JOSEF</b> | \$50,000 future medical cost               |
|                    | \$20,000 past physical impairment          |
|                    | \$20,000 future physical impairment        |
|                    | \$65,000 past lost earnings                |
|                    | \$460,000 future lost earnings             |
|                    | \$40,000 past pain and suffering           |
|                    | <u>\$100,000 future pain and suffering</u> |
|                    | \$755,000                                  |

**ESTATE OF JOSEPH**

**(JOBY) WOOD** \$15,000 past medical cost  
 \$1,200,000 past pain and suffering  
\$15,000 funeral expenses  
 \$1,230,000

**JOSEPH**

**ANDREW WOOD** \$25,000 past pain and suffering  
\$25,000 future pain and suffering  
 \$50,000

**JOSEPH JULIAN**

**(J.J.) WOOD** \$357,000 past pain and suffering  
 \$357,000 future pain and suffering  
 \$1,000,000 punitive damages  
 \$358,000 loss of inheritance  
 \$357,000 past pecuniary loss  
 \$357,000 future pecuniary loss  
 \$357,000 future loss of comp. and society  
\$357,000 past loss of comp. and society  
 \$3,500,000

**LAURA WOOD**

\$90,000 past pain and suffering  
 \$90,000 future pain and suffering  
 \$90,000 past pecuniary loss  
 \$90,000 future pecuniary loss  
 \$95,000 past loss of comp. and society  
\$95,000 future loss of comp. and society  
 \$550,000

**DEMAND**

None

**OFFER**

Goodrich offered \$100,000 to the Wood family and \$100,000 to Josef.  
 Silver City offered \$80,000 to the Wood family.

**INSURER(S)**

Liberty Mutual (Olive Garden)  
 Clarendon (Silver City Cabaret)  
 Burlington Insurance Co. (The Lodge)  
 Allstate (Dwayne Lewis Goodrich)

**TRIAL DETAILS**

Trial Length: 9 days  
 Trial Deliberations: 3 hours  
 Jury Vote: 6-0  
 Jury Composition: 1 male (black), 5 female  
 (1 white, 2 Hispanic and 2 black)  
 (Defendant is black)

**PLAINTIFF****EXPERT(S)**

Herbert "Pete" Lyon, Ph.D., economics,  
 Houston, TX  
 James Moore, accident reconstruction,  
 Dallas, TX

**DEFENSE****EXPERT(S)**

Steve Irwin, accident reconstruction,  
 Dallas, TX (called by Spencer G. Markle)

Gary Winbish, alcohol toxicology,  
 Dallas, TX

**EDITOR'S NOTE** Goodrich was sentenced to seven and a half years in prison for criminally negligent homicide, then sentenced to five more years for three counts of failure to stop and render aid to Wood and Mathews. He was returned to prison after this trial.

—Don Maines

**MOTOR VEHICLE****Multiple Vehicle — Rear-ender — Weather Conditions**

## Def claimed car hydroplaned, accident was unavoidable

**VERDICT****Defense****CASE**

Jason E. Guy v. Joe Hargrove Sr.,  
 No. 04-00575-E

**COURT**

Dallas County District Court, 101st, TX

**JUDGE**

Jay Patterson

**DATE**

8/8/2006

**PLAINTIFF****ATTORNEY(S)**

Rick L. Wingler, Rolle, Breeland, Ryan,  
 Landau, Wingler & Hindman, Dallas, TX

**DEFENSE****ATTORNEY(S)**

T. Cassidy "Cass" Keramidas, Keramidas  
 & Associates, Richardson, TX

**FACTS & ALLEGATIONS** At about 6 a.m. on Dec. 23, 2002, plaintiff Jason E. Guy, about 24, was in a three-vehicle rear-end collision at the intersection of Buckner Boulevard and Stonehurst Street in Dallas. It was rainy and all three cars were mid-size sedans. Guy was a sleeping passenger in the front car, which was stopped at a light. The rear motorist was Joe Hargrove Sr. He rear-ended an uninsured driver, who then rear-ended the car Guy was in.

Claiming injury, Guy sued Hargrove for failing to control speed.

Hargrove said he saw the stopped cars and braked, but that he hydroplaned. He asserted unavoidable accident.

**INJURIES/DAMAGES** *back and neck; soft-tissue injuries*

An ambulance came, but Guy declined treatment at the scene. Later that day, he presented to Accident & Injury Chiropractic. He treated there 24 times for soft-tissue neck and back injuries. His medical bills were \$7,500, proved up by affidavit. The plaintiff sought unspecified damages for pain and suffering.

There was very little property damage. The defense argued that the treatment was excessive. Also, according to defense