

## Passenger Killed - Driver Speeding, Had Been Drinking

by admin

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**Description:** A 16-year old male decedent was the back-seat passenger in a vehicle driven by the 21-year-old brother of his 15-year-old friend (front passenger) in northern Wake County. At 3:00 in the morning, the three boys went on a ride to listen to music in 21-year-old's car. Within one mile of the home, the driver lost control of the vehicle while traveling at a speed of 70 mph in a 45 mph zone. The car ran off the road and flipped several times striking a wooden fence. The 16-year-old decedent was partially ejected from the back-seat of the vehicle suffering massive head injuries, and died instantly.

Following the single-car collision, driver was arrested under suspicion of DWI, and three hours later a blood test revealed a BAC of .08. Driver informed arresting officer that he had consumed 9-10 beers and some liquor before the collision. Driver subsequently plead guilty to involuntary manslaughter. Autopsy of the decedent revealed a BAC of .07. Defendants alleged that the decedent was contributorily and grossly contributorily negligent. Deposition testimony from both the driver and the front-seat passenger established that decedent had no prior knowledge of the driver's intoxication, although the three were at a party together.

Estate of the decedent brought wrongful death action for negligence and gross negligence, and asserted claims under negligent entrustment and family purpose theories. Punitive damages were also sought due to the driver's intoxication and high rate of speed. Before the filing of the wrongful death case, the opposing liability insurance company filed a declaratory action due to a dispute over coverage for the collision. The declaratory action was litigated for approximately one year. All claims raised by the wrongful death action and declaratory action were resolved at a universal mediation.

The decedent left behind a younger brother with a congenital birth defect. Parents were recently divorced, and decedent was a resident of a military school.

**Type of Action:** Wrongful death

**Injuries Alleged:** Death of 16-year-old boy

**Name of Case:** Withheld upon request

**Court/County:** Wake County

**Case No.:** Withheld upon request

**Tried Before:** Mediation

**Name of Judge:** Not assigned

**Special Damages:** Burial and funeral expenses: \$9543.03

**Verdict/Settlement:** Settlement

**Amount:** \$800,000.00

**Verdict Date:** April 15, 2003

**Demand:** n/a

**Offer:** n/a

**Experts:** None

**Insurer:** Withheld upon request

**Plaintiff's Attorney:** William S. Mills and Carlos E. Mahoney, Durham; Matthew B. Murray, Charlottesville, VA

**Person Submitting:** Carlos E. Mahoney