

LAWYERS WEEKLY

Estate: Daughter suffered emotional trauma from fatal crash

After drunk driver T-bones car, girl, 15, witnesses full process of mother dying

\$1.586 million

In a wrongful death/dram shop lawsuit filed in Oakland County Circuit Court, the Estate of Agnes Dregely and Laszlo Dregely, next friend to plaintiff's minor Vivian Dregely, sought compensatory damages from defendants Deborah Foust and It's A Matter of Taste following a fatal auto accident.

On March 7, 2008, Agnes Dregely, 49, was driving with her 15-year-old daughter, Vivian. At 9:51 p.m., Dregely came to a complete stop at a stop sign at the intersection of M-59 and Hospital Road in Waterford Township, and looked both ways. When traffic cleared, she proceeded to pull across the lanes in order to go westbound on M-59.

Foust's vehicle appeared, speeding eastbound on M-59 at 67 mph, which was 17 mph over the speed limit. Dregely could not

Type of action:
Wrongful death, dram shop

Type of injuries: Death, infliction of emotional distress

Name of case: Estate of Agnes Dregely, et al., v. Foust, et al.

Court/Case no./Date:
Oakland County Circuit Court;
08-095850-NC; Aug. 17, 2010

Name of judge: Nanci J. Grant

Settlement amount: \$1.586 million

avoid Foust's vehicle, which T-boned the side of Dregely's car before turning over. Despite her seat belt being on, Agnes Dregely's door post was ripped off, she was torn from the car, and the car was bifurcated. Vivian immediately went to her mother's aid, holding her while waiting for someone to help them.

Foust was belligerent and visibly intoxicated when the police arrived, and in-

Insurance carriers: North Pointe (It's A Matter of Taste); Farmers (Foust)

Attorney for plaintiff: James O. Elliott

Attorneys for defendants:
Michael C. Ewing and Thomas J. Ryan (It's A Matter of Taste); Paul R. Knight (Foust)

Key to winning: Asserting severity of damages in such a way that it would become clear to all parties involved that insurance policy limits were not sufficient compensation for the loss of one life and the scarring of another

formed the responding officer that, if her car had not flipped over, they never would have caught her because she would have driven away. Foust refused to provide her blood alcohol level via a breathalyzer test, but after a warrant was issued and Foust's blood alcohol level was obtained, it was 0.24 — three times the legal limit — more than two hours after the incident.

Agnes and Vivian Dregely were eventually transported to Pontiac Osteopathic Hospital, where Agnes died at approximately 12:17 a.m. March 8, 2008.

Plaintiff asserted defendant It's A Matter of Taste broke dram shop law by serving defendant Foust when she was visibly intoxicated, thus resulting in the accident. It also was contended that plaintiff minor, despite not suffering physical injuries in the accident, was inflicted with psychological trauma for being forced to witness the process of her mother's death, with no one beside her for comfort or help.

Plaintiff asserted insurance policy limits were not sufficient compensation for the loss of one life and the scarring of another.

Defendants contended decedent was at fault for failing to yield by pulling out onto the roadway from a side street. As well, defendant It's A Matter of Taste asserted not serving defendant Foust after she became visibly intoxicated.

The matter settled for \$1.586 million.