



SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA
WASHOE COUNTY

STEVEN R. KOSACH
DISTRICT JUDGE
DEPARTMENT EIGHT

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Nominating Committee:

I am proud to nominate Mr. Jack Kennedy to the Nevada Trial Lawyers Association as Trial Lawyer of the Year. I outline some of the factors, which distinguished Mr. Kennedy's representation of his clients from the many other cases which are litigated everyday in this jurisdiction, including the heated motion practice and the creative end results for the client, and how those factors demonstrated Mr. Kennedy's talents as trial counsel.

On December 19, 1998, seven-year-old Christopher Williams was killed in a multi-vehicle collision near Fernley, Nevada when the vehicle driven by his father, Robert Williams, was smashed by the vehicle following it. The Williams family was on their way to the mountains to test the new sled Christopher received as an early Christmas present. They had reservations at the Hilton that evening and were going to see the Nutcracker for a special Christmas treat. The collision happened on the westbound lane of Interstate 80, approximately twenty miles from Reno.

Unfortunately, the road condition warning signals that were intended to warn drivers of adverse road conditions on that stretch of the interstate were not working. They not only failed to warn drivers of the hazardous road conditions, they gave a false impression to the drivers that there were no icy roads ahead.

A tractor-trailer truck, traveling some distance in front of the Williamses slowed down to avoid a multi-vehicle collision ahead of it. The driver of the truck stopped his rig. However, his failure to safely move to and legally stop his tractor-trailer on the right shoulder of the road caused the deadly chain reaction that ended Christopher's life. The vehicle immediately behind the tractor-trailer lost control and struck the tractor-trailer. Mr. Williams, unable to reach a complete stop, braked harder, veered to the left, grazed the side of the car in

front of him, and came to a stop when he struck another vehicle stopped between the left side of the tractor-trailer and the guard rail. Just after Mr. Williams ensured the safety of his wife, Beatrix Williams, and Christopher, who was in the back seat, the vehicle following them smashed into the back of the Williams' car. The impact collapsed the rear of the Williams' car into its passenger compartment, forced the backrest of the rear seat toward the front passenger area, pinned Christopher against the front passenger seat's back rest and killed him. Christopher's parents were devastated.

Mr. Kennedy realized that the loss of the Williams' young child had to be addressed in something other than a monetary recovery. They desired a result, which would pay tribute to the memory of their lost son, Christopher. They also strived to take a different approach so that others might not suffer an equally devastating loss in a similar accident.

The litigation was defended aggressively by all Defendant's. There was extensive and extremely heated motion practice, but Mr. Kennedy never wavered. Sensitive to the anguish which the litigation caused Christopher's parents, Mr. Kennedy also sought a solution which would be expeditious and effective, short of forcing the Williams to relive the tragedy once again on the stand, in trial.

Mr. Kennedy conducted thorough discovery and then structured a settlement conference with all Defendants to preview the trial for them, without actually putting the Williams through it. The centerpiece of this presentation was an audio-visual presentation on CD of Christopher's life and the tragedy of his death. When the CD was presented at the settlement conference, counsel was visibly moved to tears. The presentation, along with the solid facts developed through the aggressive discovery, were effective; the matter settled with three of the defendants at that initial settlement conference.

The six-figure recovery provided the necessary monetary compensation to the Williams to address their loss. But, in addition, Mr. Kennedy remembered the other, non-monetary concerns the Williams had expressed going into the case. As part of the settlement structure, Mr. Kennedy was able to get the remaining defendant to provide, in Christopher's name, a complete C-5 SAM weather station for the Gerlach Middle/High School Science Department, along with complete training for school faculty on the station's operation. In addition, 10-12 new Pentium processor computer systems will be provided to the school in Christopher's memory. The school will also conduct a memorial service for Christopher, dedicating the equipment. Lastly, NDOT will be providing a memorial marker for Christopher by the highway where the accident occurred.

Mr. Kennedy was able to obtain an appropriate monetary award and yet spare the Williamses from re-living the tragedy of their loss in a courtroom. He also obtained the tribute to Christopher, which was so important to his parents.

The tributes went beyond a marker, but included gifts to the Gerlach School, which will provide useful benefit to others in Christopher's memory. It is this complete attention to the client's wishes, and the complete recovery, which distinguish Mr. Kennedy as an outstanding trial attorney in Nevada.

Actually, there were two separate lawsuits. The first settlement allowed Mr. And Mrs. Williams some comfort but both of them still blamed themselves. Much of the litigation efforts were designed with finding a cluster of circumstances that would prove no one traveling the speed limit could avoid the accident no matter how skilled of a driver.

In the first case, the fourth or fifth vehicle collided with the tractor trailer, that ultimately rear ended the Williams' vehicle killing Christopher. Mr. Kennedy was able to show the Judge and the insurance carrier of that vehicle that other funds were available under the policy for medical and that if the carrier was not going to provide them directly to the passenger of that vehicle that Mr. Kennedy would stand ready to take an assignment from them for a bad faith claim. Once that was out in the open the carrier's position collapsed. The Estate and Mr. and Mrs. Williams shared the \$99,000 less fees for the law firm. There was also an Uninsured Motorist sum of \$30,000 and an employee life benefit of another \$10,000, plus burial costs, none of which was shared in as a fee; all of that went to the parents.

Mr. Kennedy's firm spent no less than \$10,000 in hard costs and six to eight months in the development of the evidence with experts gathering information, affidavits, weather data, road maintenance and protocol, and scientific evidence before even filing the original Complaint.

Respecting the clients' wishes, Mr. Kennedy redoubled his efforts and prepared a plaintiff's motion for summary judgment, normally a defense tool.

Donations of the weather station, computers and library contributions could be something that carries on Christopher's memory. The school planted a tree in memory of Christopher that is growing nicely. The values of the "donations" exceeded \$30,000. No fees for value were taken from these items.

Nearly \$750,000 in money and value was obtained. Clearly the decision not to try the case may not have benefited the firm's bottom line in dollars but the real reward after taking care of immediate financial needs is to see that the Williamses are starting to look forward to the dedication ceremonies and the positive impact their son will have on his peers for years to come.

Mr. Kennedy's expertise and professionalism, along with his empathy and experience, brought about the above results in this tragic case. More importantly, his diligence brought forth a result for his clients that uphold the honor of the legal profession and the Nevada Trial Lawyers Association. He

should be honored by the NTLA for some of the finest "lawyering" I have witnessed during the twelve years I have been on the bench.

Very truly yours,



STEVEN R. KOSACH