

JURY VERDICTS & SETTLEMENTS



RACHEL IBARRA

Peggy Candreva, the mother of a dead motorcyclist, with lawyers Mickey S. Smith, left, Joseph B. Landy and Gary Lesser.

Insurer must pay up in death of motorcyclist

Case: Peggy Candreva as personal representative of the estate of Joshua Candreva, deceased, and Peggy Candreva as surviving parent of Joshua Candreva, deceased, v. Theodore Penzenik and Helen Hardy Penzenik

Case no.: 50
2002CA008497XXANAB, Palm Beach Circuit Court

Description: Auto negligence/wrongful death

Filing date: July 1, 2002

Trial date: Aug. 30, 2005

Judge: Jonathan Gerber

Plaintiff attorneys: Michael S. Smith and Joseph B. Landy, Lesser Lesser Landy & Smith, Palm Beach.

Defense attorney: Daniel M. Bachi, Sellars Marion & Bachi, West Palm Beach

Details: In May 2002, on a clear, dry day, Joshua Candreva, 23, was cruising on Hypoluxo Road in Lantana on his Yamaha motorcycle. Candreva, wearing a helmet, was driving eastbound just west of Congress Avenue when a westbound Ford Taurus allegedly made a left turn into his path. Candreva, a sandwich shop manager in Delray Beach, was killed instantly in the collision. His mother, Peggy Candreva of Wellington, filed a negligence suit against Helen Hardy Penzenik, the car's 79-year-old driver, and her husband, Theodore Penzenik, who owned the Taurus, for \$10 million.

The Penzeniks had three insurance carriers. Allstate and Liberty Mutual and Progressive each quickly settled for the policy limit of \$50,000. The third insurer, Windsor Insurance, refused to settle.

Plaintiff's case: Peggy Candreva's lawyers, suing under the Florida Wrongful Death Act, put family members on the stand to testify about the extent to which Joshua's death had inflicted emotional damage on them. Peggy Candreva testified at length about the close relationship she'd enjoyed with her son.

Defense case: Defense counsel argued that Candreva was speeding at the time of the crash and brought in an expert witness to examine the scene and the wreckage and to make that argument.

Rebuttal: The plaintiff team countered with their own expert, an authority on motorcycles and their operation, who argued that Candreva had not been speeding and that no motorcyclist could have avoided the collision once the driver of the car turned in front of him.

"Their hired gun was in no way convincing," Smith said. "He'd been on a motorcycle once in his life, back in the 1950s. Our witness was a real expert who made an excellent case."

Outcome: After eight days of trial and three hours of deliberation, the six-member jury on Sept. 7 found the defendants 100 percent liable and awarded damages of \$6 million to Peggy Candreva and \$300,000 to Ernest Pappas of Long Island, Joshua's biological father, who had little contact with his son over the years.