

# Drunken-driving award sets La. record

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A Lacombe man who was seriously injured last year in a head-on collision with a drunken driver in St. Tammany Parish has been awarded nearly \$1.9 million, including a record \$1.33 million in punitive damages.

The federal court jury's punitive damages to Carl Spicer, 42, is nine times larger than Louisiana's prior apparent record of \$150,000 imposed against a drunken driver after a 1986 crash, also in St. Tammany.

A gentleman, of Dallas, the driver responsible for the July 12, 1995, accident on U.S. 190 west of Lacombe, testified he had drunk between five and 10 rum-and cola drinks at a Mandeville bar and grill about six or seven hours before the crash.

The gentleman said he had passed out at the wheel before veering into the oncoming lane where Spicer was driving to his construction job with Spartan Building Corp.

Spicer, a husband and father of seven who lives with his family in a three-bedroom home, suffered injuries to his back, neck and knees, and he said he can no longer stand up for any length of time and hasn't been able to find work since the accident. He said he had enjoyed the heavy-construction job he landed two years before the crash, after having spent 19 years in kitchen and custodial work at Southeast Louisiana Hospital near Mandeville.

When he receives the award, Spicer said he'll probably add a wing to his house, which sits on an acre of land, so the family can spread out and the children can get rid of their bunk beds.

And how did a federal jury in New Orleans arrive at a punitive figure of \$1,330,209 for Spicer after this month's three-day trial?

Spicer's attorney, George W. Healy, IV, said a toxicologist determined the gentleman had a blood alcohol level of .24 at the time of the accident, 2.4 times higher than the .10 threshold for being legally drunk.

"So I asked the jury to send a message to all who would recklessly endanger people's lives on the highway: multiply the compensatory damages you find by that 2.4 factor, and that should be the exemplary (punitive) bill," Healy said.

The jury bought Healy's argument, and the U.S. District Judge Mary Ann Vial Lemmon issued the full judgement:

- \$554,245 for physical and mental pain and suffering, physical disability, loss of life's enjoyments, lost earnings and medical expenses.
- \$1.33 million for the DWI-related injuries "caused by the wanton and reckless disregard of the rights and safety of others." The final figure: \$1,884,463.60, plus interest, which pushes the award above \$2.1 million.

The jury foreman, who did not want to be identified, said the six member panel was unanimous on both the compensatory and punitive amounts. "Based on the judge's charge and how the statute reads, we found both figures were proper, especially since the plaintiff can't work the way he used to," he said.

There are four relevant factors in weighing punitive damages, as Judge Lemmon laid them out for the jury:

- Nature and extent of the harm to the plaintiff.
- Wealth and financial situation of the defendant.
- Character of the conduct involved.
- Extent to which such conduct offends a sense of justice and propriety.

The verdict was returned against the gentleman, a 29-year-old Dallas lawyer, and State Farm Insurance Co., which had insured him for \$1.1 million, according to St. Tammany records.

If State Farm pays up to the limit of his policy, the gentleman could be responsible for covering the other \$1 million and accumulated interest. the gentleman could not be reached for comment in Dallas.

State Farm's attorney had recommended settlement at \$375,000 but no formal offer was ever made, Healy said. Before trial, Spicer offered to settle for \$525,000.

The gentleman apparently fared better when facing criminal charges related to the accident in 22nd Judicial District Court in Covington.

On Jan. 16, state Judge John W. Greene allowed the gentleman to plead no contest to charges to driving while intoxicated, negligent injury and improper use of a highway lane.

For a first DWI conviction, state law calls for a fine of between \$125 and \$500 and a jail sentence of between 10 days and six months.

On all three accounts, Greene gave the gentleman a suspended sentence of more than 100 days in jail, fines totaling a few hundred dollars, and two years probation.

During probation, the judge ordered, the gentleman must attend a driver improvement course, successfully complete a substance abuse program with appropriate follow-up, do four eight-hour days of public service work for St. Tammany Parish, and perform 240 other hours of community service.

But Jennifer Holley, a representative of Mothers Against Drunk Drivers who attended the gentleman's no-contest plea and sentencing, said this week she was told by St. Tammany probation officer Shonnie Oswald that the gentleman has not completed the special conditions the court ordered.

However, Oswald would not elaborate, saying the extent of the defendant's compliance or non-compliance is confidential, Holley said.

Jay McCreary, the New Orleans attorney who represented the gentleman and State Farm, said after the civil trial, "We're disappointed with the outcome, but we're preparing all post-trial motions available to our client."

Drew Ranier of Lake Charles, president of the Louisiana Trial Lawyers Association, said the nearly \$2 million verdict is a "good sign" that those guilty of drunken driving will be held accountable.

"It may reflect a sea change in people's attitude," said Ranier, citing what he called Louisiana's "cultural tolerance for drinking and driving."

In St. Tammany, officials have become increasingly concerned about drunken driving. Last month, Slidell passed a law requiring bars to close from 2 to 9 a.m. daily, and the Police Jury will soon consider a measure requiring lounges throughout unincorporated St. Tammany to close from 2 to 6 a.m.