

Marlboro Herald-Advocate

Wrongful death trial ends in settlement

By LYNN McQUEEN

A Marlboro County jury last week returned a verdict in favor of the families of three children killed in a wreck in McColl nearly two years ago.

At the end of the week-long civil trial, the jury found negligence on the part of Frank Richard Davidson, who was the driver of the car that caused the wreck, as well as the Lancaster Hospital Corporation, doing business as the Lancaster Recovery Center, and Annie Fongheiser, at the time the director of the recovery center.

The jury reached its verdict around 10:00 Friday night, December 18, awarding actual and punitive damages totaling \$10.6 million.

Just before the verdict was rendered, however, the parties reached a settlement agreement. The terms of the agreement were not announced in open court, but it was reportedly the largest award of damages in any civil case in Marlboro County history.

The trial began Monday morning, December 14, and continued through that Friday afternoon before the jury deliberations began.

It stemmed from a wreck that occurred on January 21, 2007, in which three North Carolina children were killed and a fourth was permanently injured.

The families of the children brought the suit, alleging negligence on the part of Davidson, who was under the influence of crack cocaine at the time of the wreck, and the recovery center where he sought treatment but was turned away earlier that same day. Fongheiser, as the center director, was held personally responsible as well.

Davidson, a resident of Charlotte, NC, admitted his fault in the crash and asked the jury to return a verdict against him for actual and punitive damages.

He has also pled guilty to criminal charges, specifically four counts of felony driving

Trial

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under the influence, and will be sentenced for those in January 2010.

The wreck happened around 9:20 p.m. on Sunday, January 21, 2007 on U.S. 15-401 in McColl.

Davidson, who admitted to having been on a crack cocaine binge for days at the time, was driving a 2003 Mercedes that crossed the center line, striking a 2004 Dodge Neon head-on.

In the Neon heading home from a church service in McColl were 17-year-old Abigail McBryde of Wagram, her sister Hannah, 18, her brother Nathan, 13, and 14-month-old Dale Oxendine of Maxton.

Abigail and Dale were pronounced dead at the scene. Hannah and Nathan were flown to a Charlotte hospital, where Hannah died the next day. Nathan suffered permanent brain injury.

Their parents, Michael and Deborah McBryde, Anthony Oxendine and Raquel Hunt, filed the suit against Davidson, Lancaster Hospital Corporation and Fongheiser.

Davidson had been a patient of the Lancaster Recovery Center in the past and had sought re-admittance the morning of the wreck, but was told to come back the next day without having an assessment performed, which violated center policy, according to testimony.

The families were represented by Douglas Jennings, Jr. of Bennettsville with assistance from the Columbia firm of Gergel, Nickles & Solomon.

Jennings told the *Herald-Advocate* after the trial that, "our clients are very satisfied that a fair resolution has been reached, and we thank the court and jury for helping us to bring about a just result."