

Clarksburg family settles damage claim with county, officer who hit their son

Jovels to receive \$400,000, maximum under state tort law

by Susan Singer-Bart | Staff Writer

The family of a Clarksburg boy who was paralyzed when he was hit by a county police cruiser driven by an off-duty officer in 2008 is settling its lawsuit against the officer and the county.

Luis Jovel Jr. and his parents, Norma and Luis Jovel Sr., will receive \$400,000 in a settlement agreement that will be finalized soon, said Patricia Via, chief of the county attorney's office litigation division/self-insurance.

Via's office represented Officer Jason R. Cokinos and the county in the case; Via said she spoke on behalf of Cokinos.

"I know he's relieved it's over," she said. "He has to move forward, too."

Via successfully argued that although Cokinos was off duty at the time his cruiser, a 2005 Ford Crown Victoria, struck Luis, officers are always on call, so the maximum possible damage award was the state's maximum liability limit for a local government of \$200,000. Jovel's lawyers had argued that Cokinos' trip was not connected to his police work so the damages should not be limited by the government's liability.

"He was operating his police vehicle in accord with county regulations and would have been responsible to answer police calls," Via said.

The judge ruled in July that because the parents' case derived from their son's, the two suits should be combined into one with a maximum liability of \$200,000.

Jovels' attorneys planned to appeal that ruling and argue there were really two cases.

"The county reviewed it and considering the seriousness of the claims and if they did win on appeal they could receive \$400,000, we settled," Via said. "This avoids the trial for everyone and more attorneys' fees and a long process."

The settlement agreement cannot be appealed, she said.

"It's a terrible case all around," Via said. "The county, the police and the officer all have significant feelings ... this is a hard case."

Ronald Karp of Karp, Frosh, Lapidus, Wigodsky & Norwind of Rockville represented the Jovels. Through his secretary, he said he could not talk about the settlement until it is finalized.

Norma and Luis Jovel Sr. filed suit in Montgomery County Circuit Court in November 2009 charging negligence by Cokinis and by the county for owning and insuring the vehicle he drove. They sought \$7 million from the county and \$14 million from the officer.

Luis was 12 when he was hit by the cruiser on April 29, 2008, as he ran across the street in front of his home on Stringtown Road.

Doctors do not expect him to ever walk again, Karp said in January.

He said the Jovels filed the lawsuit with a goal of securing "a fair and reasonable amount of compensation for this young man who will have to spend the rest of his life in a wheelchair."

Luis suffered a serious head injury and a spinal injury similar to that of the late actor Christopher Reeve; he will require round-the-clock care for the rest of his life, Karp said.

Now 14, Luis is a freshman at Clarksburg High School.

The Jovels had incurred more than \$1.9 million in medical expenses, according to court papers filed in January. They also spent more than \$97,000 to make their home handicap accessible and \$25,000 for a specially equipped van. Norma Jovel gave up her job to care for her son and Luis Jovel Sr. is a manager at a McDonald's restaurant in Washington, D.C., Karp said in January. The Jovels also have a teenage daughter. Medical insurance covered some of the expenses.

For the rest of his life, Luis will have medical bills related to his injuries and will require special needs assistance, according to court papers.

Cokinis was traveling south on Stringtown at a speed of at least 56 mph when he began to apply his brakes before striking Luis near the intersection of Needle Drive, on a section of road where the posted speed limit is 30 mph, county police said.

Luis was crossing westbound and was near the double yellow line when he was struck, the police report said. His neck was fractured in the collision, according to the report.

The report includes a conclusion by the Montgomery County Police collision reconstruction unit that if Cokinis had been traveling the speed limit, he would not have hit Luis.

Cokinos testified he thought that the speed limit was 40 mph in that area and thought he was traveling the speed limit.

Cokinos testified that he had never been on Stringtown Road before. About a week before the crash he had started an off-duty temporary job directing traffic two hours a day at the Mirant power plant in Dickerson. He said a traffic report must have made him detour from his normal route. He was dressed in full uniform with his gun.

Cokinos said he was focused on the road when, "like a deer jumping in front of your car," Luis ran into the road "at full sprint."

As soon as he saw the boy, he slammed on his brakes, Cokinos said.

"He never looked at me, I never saw his face," Cokinos said. "All I saw was the back of his head, the right ear area."

Luis was thrown onto the hood of the car and landed on the side of the road. His father heard the squealing brakes and ran out of the house. He and the Cokinos performed cardiopulmonary resuscitation until an ambulance arrived.

The police report states that the boy was illegally in the roadway at the time of the collision.

The county was prepared to argue that Luis's actions contributed to his injury, Via said.

No criminal charges were filed as a result of the collision reconstruction unit's investigation.

Cokinos was found not guilty of negligent driving as part of a plea bargain in Montgomery County District Court in Rockville in November 2008, said James F. Shalleck, his attorney at the time. He pleaded guilty to speeding, for which he was sentenced to \$185.50 in fines and fees, Shalleck said.

Cokinos has not spoken to Luis or anyone in his family since the crash, Via said.