

October 6, 2015

\$1M Settlement Reached on Highway Sign Mix-up

by **Celia Ampel**
campel@alm.com

An engineering and architectural firm has agreed to pay \$1 million to the family of a postal worker who died in a collision while delivering mail on a rural stretch of road in Osceola County.

A road sign mixup was blamed. Residents were told before the crash that warning signs would be added at the intersection where Jhurel P. Villanueva died in a rollover collision with a passing car.

The family's attorneys argued for six years that the company should be held responsible for the mistake that prevented road signs from being installed.

Jacksonville-based Reynolds, Smith and Hills Inc. contracted with the county in 1999 to expand Hickory Tree Road in St. Cloud. Residents at public meetings requested a left turn lane, reduced speed limit and warn-



Todd Falzone said traffic signs were placed hundreds of feet away at the intersection of Hickory Tree and South Bullis Road instead of Hickory and North Bullis.

SEE SIGN, PAGE A6

FROM PAGE A1

SIGN

ing signs for drivers at the intersection of Hickory Tree and North Bullis roads.

The county and company agreed to add signs, but a Reynolds Smith engineer accidentally arranged to place the signs several hundred feet away at the intersection of Hickory Tree and South Bullis Road.

"Nobody ever knew the difference," said Todd Falzone of Kelley/Uustal in Fort Lauderdale, who represented Villanueva's family.

The mistake was fatal, the postal worker's attorneys argued.

Villanueva was driving down Hickory Tree Road on June 16, 2007, preparing to turn left on North Bullis Road. As he slowed, the driver behind him began to pass the mail truck on the left, moving into the oncoming traffic lane.

They collided, the mail truck flipped over, and Villanueva was ejected and died. He left behind a wife and two children.

If there had been a no-passing sign at the intersection, the accident wouldn't have happened, Falzone argued.

Villanueva's widow filed a wrongful-death suit against Reynolds Smith and the county in 2009. The county soon paid the \$200,000 cap under sovereign immunity and was dismissed from the case.

Osceola Circuit Judge Scott Polodna granted summary judgment in favor of Reynolds Smith in 2013, finding the county reopened the plans and made changes unrelated to the Bullis Road signs. The county's engineer signed the new plans, which no longer mentioned Reynolds Smith.

"They argued to the judge that they could not be held responsible for those plans because a new set of plans was signed by the county, so only the county could be sued," Falzone said. "I knew that wasn't the law, and the Fifth District Court of Appeal agreed with me" in a February 2015 opinion.

The case was remanded for retrial and settled Sept. 25. Falzone said he was surprised the company accepted his settlement offer for \$1 million, a number chosen specifically because opposing counsel previously said the defendant wouldn't accept it.

"I said: 'Please don't accept that. I'd prefer to go to court and get a bigger verdict and make you pay my fees,' "

Falzone said. "I guess maybe I should use that as a strategy in the future."

Defense lawyer David Dial said in an email he merely relayed Reynolds Smith's insurer's original position to Falzone. The company holds insurance from Lexington Insurance Co.

"Obviously it changed its position and decided to pay," said the partner at Weinberg Wheeler Hudgins Gunn & Dial in Atlanta. "I cannot speak to why the insurer's position changed. It was not my decision."

Falzone said the court still must approve the settlement because it involves a minor. Villanueva's children are now 18 and 15.

The settlement does not include any admission of wrongdoing.

Even though the legal battle is over, the residents of North Bullis Road never got their wish, Falzone said.

"If you go out there today, there are still no signs," he said.

Falzone's co-counsel was Walter A. Ketcham Jr. of Grower Ketcham in Orlando.

Defense counsel included attorneys from Rogers Towers in Jacksonville and Weinberg Wheeler in Atlanta.

Celia Ampel can be reached at 305-347-6672.