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WEEKLY

■ \$5 MILLION SETTLEMENT

Suit over MU student's fatal fall settles for \$5 million



A.W. Smith

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Two property management companies tied to the site where a University of Missouri student died from a fall from a balcony during a fraternity party have agreed to pay \$5 million to settle with the student's parents.

On April 7, U.S. District Judge Nanette Laughrey approved the wrongful death settlement in a suit brought in 2015 by John and Stephanie Lipp, parents of Jack Lipp, 19.

The Lipps brought negligence claims against Ginger C, LLC; American Campus Communities, Inc.; Roland Management and both the national and local chapters of the Pi Kappa Phi Fraternity.

Roland Management was granted its motion for summary judgment. ACC and Ginger C were the parties of the April 7 settlement.

Of the \$5 million, \$2 million will go to plaintiffs' counsel, including The A.W. Smith Law Firm in Columbia and Horn, Aylward & Bandy in Kansas City.

The parties have also agreed that

\$150,616 of the settlement funds will cover the plaintiffs' counsel's litigation costs and expenses.

A.W. Smith, who represented the plaintiffs, said the case was difficult, presenting "a lot of complex issues, a lot of litigation, a lot of experts and a lot of work."

He pointed to a large volume of documents in discovery, which amounted to over 50,000 pages, as part of that work.

Attorneys had to parse thousands of pages of zoning and other city records to pin down which parties could potentially be held liable for Lipp's death.

"We're trying to figure out how much of them had ownership at the time of the incident," he said.

Prior to the party, Ginger C, a student housing rental company owned by MU professor Nakhle Asmar, contracted to purchase the property where the incident occurred, at 507 S. Fourth Street in Columbia.

Additionally, it had a contract with ACC to resell and redevelop the property into a 718-bed student housing complex.

As city officials considered the redevelopment plans, ACC directed Ginger C to lease to students. The complaint said the site of the party was leased to members of the fraternity.

Smith said Ginger C closed on the property in October 2014 with a loan it secured from ACC.

Under the terms of the loan, Ginger C still owned and managed the property, however, there was conflicting evidence as to whether the tenant lease was assigned to ACC, Smith said.

Ginger C was the only entity to inspect the property after closing, Smith said. A witness testified that Asmar was notified that an outdoor balcony railing was in need of repair, but Asmar denied he was shown the railing.

In their complaint, the Lipps alleged that Ginger C did not make any repairs because the building was scheduled to be demolished within a short period of time.

The night of the party, Jack Lipp reportedly went out to the deck to relieve himself instead of using a bathroom inside with a lengthy line.

While on the deck, he leaned on the wooden balcony, it gave way and Lipp fell 18 feet to the driveway, where he suffered injuries to his head and brain. He died on Dec. 25, 2014.

Despite the complexity of the case, Smith said a key point in bringing the claims against ACC was a lack of a default provision in its assignment of leases. He said that shows ACC's interest in having more control of the property.

The settlement with the property management companies follows a settlement approved by Laughrey in November between the Lipps and the fraternity chapters. The terms of the settlement were confidential and filed under seal.

Attorneys for Ginger C and ACC could not be reached for comment. **MO**

WRONGFUL DEATH

■ **Venue:** U.S. District Court for the Western District of Missouri

■ **Case Number/Date:** 2:15-cv-04257/April 10, 2017

■ **Judge:** Nanette K. Laughrey

■ **Mediator:** Rich McLeod, The McLeod Law Firm, Kansas City

■ **Caption:** John P. Lipp and Stephanie S. Lipp v. Ginger C, LLC and American Campus Communities, Inc.

■ **Plaintiff's Experts:** David Chase, West Palm Beach, Florida (architect); Robert Griswold, San Diego, California (real estate management); Tony Childress, Dallas, Texas (civil engineering); Mariusz Ziejewski, Fargo, North Dakota (biomechanical engineering); Carl Stacy, Columbia (pathology)

■ **Plaintiff's Attorneys:** A.W. Smith, The A.W. Smith Law Firm, Columbia; Joseph A. Kronawitter and Robert A. Horn, Horn Aylward & Bandy, Kansas City

■ **Defendant's Attorneys:** Jeffrey Blaylock and Clayton Thompson, Ford, Parshall & Baker, Columbia (Ginger C); Jacqueline Annette Cook and Suzanne R. Bruss, Franke, Schultz & Mullen, Kansas City (American Campus Communities)