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FLORIDA JURY VERDICT REPORTER (FJVR)

PAUL HAYES, as personal representative of the estate of KEVIN HAYES, a deceased
minor vs. SEVEN-ONE-SEVEN PARKING SERVICES, INC.

Docket No.: 02-03683; FJVR Reference No. 05:8-17

Verdict Date: **March** 14, 2005; Publication Date: **August** 2005

TOPIC: Wrongful Death - Negligent Security - Premises Liability - Shooting - Parking
Lot Adjoining Nightclub - Patron Shot by Another Patron

RESULT: \$ 6,000,000 for Plaintiffs. (verdict)

(\$ 3,000,000 for Paul - pain and suffering; \$ 3,000,000 for Valarie - pain and
suffering).

Plaintiff Paul Hayes' Negligence: 15%; Valarie Hayes' Negligence: 25%; Defendant's
Negligence: 20%; Fabre Defendant The Garage's Negligence: 40%

JUDGMENT: \$ 1,200,000 for Plaintiffs on March 22, 2005 (Defendant's share of the
verdict after finding of 20% negligence).

STATE: Florida

COUNTY: Hillsborough

JUDGE: Sam D. Pendino

PLAINTIFF PROFILE: Decedent

Age: 16

Sex: Male

PLAINTIFF ATTORNEY: Fredric S. Zinober and Lyann A. Goudie of Cohen, Jayson &
Foster, P.A., Tampa

DEFENDANT ATTORNEY: Matthew J. Jowanna and Jack D. **Luks of Luks,**
Santaniello, et al., Tampa/Ft. Lauderdale

CAUSE OF INJURY: On July 20, 2000, decedent was at a nightclub known as "The
Garage" located on E. Whiting Street in Tampa. Defendant operated a parking lot
across the street from the nightclub at the intersection of E. Whiting Street and
Jefferson Street. While decedent was inside the nightclub, a group of men became
involved in an argument over car rims. Decedent and others exited the club and
were standing in Defendant's parking lot. One of the men involved in the original
argument had gone to his vehicle to get a .38-caliber handgun. The man began firing
the handgun, killing decedent, and injuring another man. Plaintiff alleged that
Defendant was negligent in failing to provide adequate security, such as guards,
lighting, and other reasonable measures to help prevent the occurrence of a crime
such as the shooting of decedent. Defendant alleged that the nightclub was negligent
in allowing decedent's assailant into the nightclub despite his involvement in an
altercation weeks before this incident. Defendant alleged negligent supervision on

the part of decedent's parents in failing to be aware of the whereabouts of their son, a minor child.

NATURE OF INJURY: Death. Decedent was survived by his parents, Paul, age forty-five, and Valarie, age forty-two.

PLAINTIFF EXPERT WITNESSES: David Salmon, Ph.D., Security, Spring, TX

EDITOR'S NOTE: Plaintiff reached a confidential settlement with the nightclub. Prior to trial, the court ordered the nightclub to be included on the verdict form as a Fabre Defendant, on the grounds that the nightclub owed decedent a legal duty to reasonably ensure the safety and well-being of decedent even when decedent was present on Defendant's parking lot and was no longer present on the nightclub's property. Plaintiff filed a Motion for New Trial on the following grounds, among others: (1) the court erred in failing to direct a verdict for Plaintiff as to Defendant's comparative negligence defense as it pertained to decedent's parents and the nightclub; and (2) the court erred in instructing the jury that duty of reasonable care may be extended beyond the business premises (i.e., the nightclub) where the invitor knows the invitees customarily utilize such adjacent premises in connection with its invitation to patrons. Defendant filed a Motion for New Trial alleging that decedent was improperly excluded from the verdict form for failing to exercise care for his own safety. All post-trial motions were denied.