

## Estate of man killed by alleged drunken driver settles for \$2M

By: Heath Hamacher August 23, 2016

According to plaintiff's attorney Nathan Hughey of Charleston, the estate of an autistic man killed by an alleged drunken driver has agreed to a \$2 million settlement in its wrongful death lawsuit against the teen driver and Buffalo Wild Wings, the establishment that provided the alcohol.

In the wee hours of Dec. 8, 2013, 22-year-old Forrest Carlton had wandered away from his group home was walking—clothed in only a T-shirt and undergarments—along Ashley River Road when he was struck by a black Dodge Charger.

The driver, 18-year-old Daniel Shirley of Hollywood, never stopped. Carlton survived the initial impact but later died at a local hospital.

Police eventually found the vehicle, parked at a nearby apartment complex and concealed under an automobile cover.

Shirley, who records show had just gotten out of jail on drug and alcohol charges, was arrested and eventually convicted of a hit and run offense. He received a suspended sentence and five years of probation.

An attorney for Shirley's criminal proceedings, David Aylor of Charleston, said at the time that Shirley was not aware that he had hit a person.

"Had he known that, he would have stopped and called authorities," Aylor said.

In the complaint, the plaintiffs accuse Buffalo Wild Wings of creating a culture that "encourages wild behavior and the excessive consumption of alcohol" through its "alcohol first" ad campaigns.

"Other witnesses testified to numerous alcohol violations at the restaurant," Hughey said. "On the night in question, multiple witnesses testified that the underage driver was not only served alcohol but was served an excessive amount of alcohol."

On Dec. 7, the complaint says, Shirley went to a Buffalo Wild Wings in North Charleston and was served alcohol without providing identification. Later the same evening, he went to the chain's Summerville location where, again, he was served alcohol as he watched football and hockey, drinking until last call.

Hughey said that Shirley had drank at these establishments numerous times before without being carded.

"Shirley did not have a false identification card or some other means of 'tricking' anyone into selling him alcohol," the complaint states.

At around 2:45 a.m., according to reports, Shirley was driving along Ashley River Road when his Charger left the road and struck Carlton before returning to the highway.

Despite Shirley's statements to the contrary, Hughey contends that Shirley made statements to third parties confirming that he struck someone while he was "drunk as f\*\*\*."

Hughey said that Carlton required total care and was placed in the group home after his mother died of cancer.

Carlton's father, Donald, represented his deceased son's estate. According to Hughey, Carlton routinely spent the weekends with his father, who was sick and unable to pick up Carlton on the weekend he was killed.



Hughey

“We hope that this settlement makes a difference not only in the implementation of safe alcohol service at the local Buffalo Wild Wing restaurants, but nationwide,” he said. “While nothing will ever bring Forrest back, we hope and believe that this settlement effectuates change, so that nothing similar happens to anyone else.”

An attorney for the defendants, John “Jay” McDonald of Clawson & Staubes in Charleston, did not return messages seeking comment.

SETTLEMENT REPORT – DRAM SHOP

Amount: \$2 million

Injuries alleged: Wrongful death

Case name: *Donald Carlton v. Buffalo Wild Wings and ACI Group*

Case No.: 2014-CP-10-3011

Court: Charleston County Court of Common Pleas

Mediator: Tom Wills

Date of settlement: April 29

Attorneys for plaintiff: Nate Hughey of Charleston

Attorney for defendant: John “Jay” McDonald of Clawson & Staubes in Charleston and Dan Gendreau of Minneapolis, Minnesota

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