

2002 Kennywood death suit settled

Park, builder to pay \$1.945 million in collapse of Whip pavilion

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After the roof from the pavilion that sheltered the Whip at Kennywood Park collapsed on May 31, 2002, park officials said it was "an act of God," following an unheard-of weather event in the region that brought winds greater than 100 mph.



Stephanie Wilkerson

But for the parents of Stephanie Wilkerson, who was killed that evening by the collapsed roof, it was anything but.

They argued in a civil lawsuit that it was recklessness, negligence and shoddy workmanship.

The suit was settled last week on the eve of a liability trial scheduled to begin Monday in the Allegheny County Court of Common Pleas.

Helen and Sylvester Wilkerson, who filed the complaint, will receive \$1.945 million split between Kennywood and Landau Building Co., the firm that constructed the pavilion. Of that sum, Kennywood's insurers will pay \$900,000. Landau's insurers will pay \$650,000, and Kennywood Park will pay \$395,000.

In addition -- and what the plaintiffs' attorney believes is most important in the settlement -- Kennywood has agreed to have an independent inspection done on all eight structures in the park built by Landau before the start of this year's season. The park, which had been operated by West Mifflin-based Kennywood Entertainment since 1898, was purchased in 2008 by Parques Reunidos of Madrid, Spain.

The pavilion over the Whip was part of the park's Lost Kennywood project. It began in 1994 and cost \$20 million. Landau was paid more than \$3.5 million for projects related to Lost Kennywood.

On May 31, 2002, what started out as a balmy spring evening quickly changed as a rare storm arrived in the area. Called a macroburst, it was part of a storm that stretched from Illinois to Southern Maine. The winds were so severe they snapped 150-year-old trees at their base. At Kennywood, 54 people were injured in the park.

Stephanie Wilkerson, 29, of Monroeville, had been standing in a lengthy line to get on another ride shortly before 7 p.m. She left that line to walk to a locker area at the Whip pavilion to retrieve a book, when the roof collapsed, trapping her head against a fence.

According to the Wilkersons' pre-trial statement, the contractor and Kennywood failed in the construction of the pavilion in a number of ways.

First, Landau relied on construction sketches that were furnished by Kennywood to build the facility. Landau never used detailed, certified construction or architectural drawings to work from, the plaintiffs said.

Further, they claimed that Kennywood never got the proper building or occupancy permits for the pavilion, nor was it ever inspected by an engineer.

The plaintiffs' structural engineer listed 20 basic omissions in the defendants' engineering work during the pavilion's construction.

"They, literally, built this thing from cartoons," said the Wilkersons' attorney, [Thomas R. Kline](#). "They wanted to do it quick, and they wanted to do it cheap."

"It's almost mind-blowing [that] a responsible company and icon of the community would do this."

According to depositions taken by the plaintiffs, one Landau official said a project like the Whip pavilion would usually include a set of plans 2 inches thick. Instead, he received "five sheets of paper drawings."

Those drawings called for the posts that held the pavilion roof to be 8 inches by 8 inches thick. Standard building codes at the time called for 8 inches by 6 inches thick.

Contractors used 6-inch-by-6 inch posts.

"The catastrophic collapse was entirely preventable, had the defendants followed the simplest of safety precautions," one expert for the Wilkersons wrote.

But Landau argued in its pre-trial statement that the pavilion was constructed with due care and in accordance with normal industry standards.

"Indeed, even if plaintiff's criticisms of the Whip Pavilion were accurate and the building was built according to what they claim were industry standards, these heavy winds would have still resulted in the collapse," lawyers for Landau wrote.

On Monday, attorney Todd Gray, who represented Landau, said his client feels it is a good settlement.

"It's always better for parties to control their own destiny when possible rather than put it in the hands of a jury," he said.

Mr. Gray noted that the settlement is not an admission of liability or wrongdoing.

Landau, a construction company in the Pittsburgh area for 100 years, said that it was hired to be a subcontractor on Lost Kennywood. Usually, in that type of project, it would be the job of the general contractor to ensure the right type of drawings are being used, Mr. Gray said.

But attorneys for Kennywood wrote in a pre-trial statement that the company hired Landau to take care of the construction details.

"Kennywood believed that Landau would hire an engineer or architect to prepare drawings or perform inspection if it was necessary," they wrote. "Kennywood relied upon Landau to ensure that construction was done properly."

Further, park attorneys said, no one from Landau ever said they didn't have adequate drawings.

Kennywood officials also said they didn't think a building permit was necessary because the pavilion was a seasonal structure, and that they never knew that the posts used to support the roof were 6 inches by 6 inches.

With the exception of the storm that led to the roof collapse, no problems has been reported with the Whip pavilion nor had any repairs been made.

A jury trial on compensatory damages was held in July 2007. The Wilkersons were awarded \$1.2 million by the jury.

This week's trial was supposed to have been for liability --and possibly punitive damages. However, the settlement recently reached will be the total payout to the family. The original jury verdict will not be paid.

In a written statement, Kennywood officials said they were pleased to have reached a settlement.

"The 100 mph macroburst windstorm was a tragedy, and we have worked diligently to reach an agreement that is acceptable with the family."

Landau officials declined comment.

Though the Wilkersons believed they had a strong case on liability, they were pleased to get finality.

"It was time for closure," Mr. Kline, their attorney, said.

He was especially pleased with the idea of assuring public safety through the required inspections of other buildings on the grounds.

"The public deserves to know what happened, and the public deserves to know it's going to be safe." he said.