

JACKSONVILLE  
**DAILY PROGRESS**  
— *Local News* —

## **Officials say Martin suit reaps largest jury award**

If it stands, officials say it will be the largest civil award ever paid by a defendant in a civil trial in Cherokee County.

"This is easily the largest personal injury verdict ever in Cherokee County," said attorney for the plaintiff Jeffrey Clark. "We made history with this case, and I think Justin (Martin) deserved it."

After a lengthy afternoon of deliberation, a Cherokee County jury awarded Justin Martin, his mother Diane and his preschool-age son \$4 million.

The decision was not without drawbacks for the family, however. According to the jury, Martin shared 50 percent of the fault for the accident through his own negligence. Because of this, Martin and his family only stand to recoup half of the amount named in the decision.

Opening arguments began the morning of March 26.

"Ten feet," said Paul Waldner, attorney for the plaintiff as he stretched a tape measure across in front of the jury. "Ten feet is the width of any lane on Highway 69, and a mere 10 feet is the distance Bennie Boyd (driver of the truck which hit Justin Martin's overturned car) would have had to move his truck to avoid hitting Justin Martin."

Stretching for a better view, jury members shifted in their chairs in apparent fascination with the visual aid as Waldner continued.

"Three non-professional drivers moved into the left lane to avoid a collision with Justin's car. Bennie Boyd did not," he said. "That's all he would have had to do, is move into the left-hand lane and none of us would have had to be here today."

Waldner added that he would never say anything detrimental about Boyd. He noted Boyd made a mistake in a vocation which allows no room for mistakes.

Bill Hommel, attorney for the defense, said the jury should pay attention to the instructions given by the judge in his charge to the jury.

"Jury Instruction No. 1 says do not let bias, prejudice or sympathy play any part in your deliberations," Hommel said. "We cannot decide this case based on our feelings of sympathy for Mr. Martin. This was the result of a very unfortunate accident. We wouldn't be here if Mr. Martin didn't roll his car."

Hommel emphasized to the jury that the brunt of the responsibility lay with Justin Martin for overturning his automobile in the middle of the highway, noting that there was no way Boyd could have avoided colliding with the overturned car.

According to DPS records the accident occurred on Sept. 4, 1999, on Highway 69 just outside of Rusk. Martin was on his way to work shortly after 6 a.m. Driving his mother's Mitsubishi Eclipse, Martin lost control of the vehicle.

He swerved and the car rolled, ending up overturned in the way of oncoming traffic, just beyond a large hill.

Witnesses report a Tex-Pack Inc. (of Irving) 18-wheeler truck, driven by Boyd came over the hill and rammed into the overturned sedan, sending it flying.

The truck left the road and eventually crashed into some trees beyond the roadway.

Before impacting the car, the truck skidded 90 feet.

The car burst into flames. Steve Lankford, who lived across the street, rushed out with a fire extinguisher and put out the flames, saving Martin's life.

Martin was air-lifted to East Texas Medical Center - Tyler, where he remained in critical condition for weeks, with head and other injuries.

According to friends of the family, Martin has spent many months since the accident in rehabilitation, including rehabilitation centers in Central and South Texas as well as some time in a nursing home where he received 24-hour nursing care.

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Martin currently is living at home with his mother in Alto, where he receives therapy.

Diane Martin is Justin's mother.

"Justin will never be able to work again," she said. "He will never be able to live on his own again without assistance."

By Robin D. Best  
Progress News Writer  
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