

Verdicts & Settlements

911 operator who failed to answer calls sued by estate

Gross Negligence / Dec Action
\$2.7 million



MARKO

This case arises out of the death of plaintiff Stephen Greene, who passed away after 911 calls went unanswered. Mr. Green

was 69 years old and at a rehab facility. He had a cardiac event requiring emergency intervention. Defendant Joshua Choroba was the 911 officer on duty and in charge of answering the calls. He was surfing Facebook on his phone and failed to answer the 911 calls, according to plaintiff's counsel. The plaintiff sued Choroba under the gross negligence exception to governmental immunity. The plaintiff also sued another 911 officer on duty, Rachel Rowell. The insurance carrier refused to indemnify or defend Rowell, claiming she was acting outside the course and scope of her employment because she pled guilty to a misdemeanor related to the incident (willful neglect of duty). The plaintiff took a consent judgement against Rowell for \$6.9 million, had Rowell assign all of her rights to plaintiff's estate and proceeded the case against Choroba. The defendant blamed Rowell for the missed 911 calls. However, extensive discovery

Type of action: Gross negligence / dec action

Injuries alleged: Death / Duty to indemnify

Name of case: Estate of Green v. Twp of Canton; Estate of Greene v. Choroba, et al.

Court/Case no./Date: Wayne County Circuit Court; 19-002332-NO and 19-015213-CB; 01/27/2022

Name of judge: Hon. Craig Strong

Settlement amount: \$2,700,000

Most helpful experts: Dr. Werner Spitz, forensic pathology

Insurance carrier: Michigan Mutual Risk Management Authority

Attorney for plaintiff: Jon Marko, Detroit

revealed Choroba was the responsible party. Choroba admitted under cross examination that he failed in his duties and that his actions were grossly negligent. The plaintiff also discovered that Choroba was disciplined several times prior for ignoring 911 calls while on duty and that, months after Greene's death, Choroba was terminated for failing to answer 911 calls yet again. Both parties filed motions for summary disposition. The trial court denied both motions. The defendant appealed and the Court of Appeals affirmed in a unanimous opinion. (See, Estate of Green v. Choroba; MiLW 08-103886, 5 pages). The plaintiff filed a dec action against the MMRMA and Canton, arguing they were responsible for the \$6.9 million judgment against Rowell. The plaintiff pointed to the collective bargaining agreement that Rowell had with Canton requiring Canton to purchase adequate insurance coverage

for her to cover any action within the course and scope of her employment. The collective bargaining agreement contained no exceptions for criminal acts. Thus, the plaintiff argued, if the MMRMA policy did not cover Rowell, then Canton had purchased a deficient policy.

The defendants filed a motion to dismiss. The plaintiff responded with an affidavit of an insurance expert who found other insurance policies on the market that would have covered Rowell even though she pled guilty to willful neglect of duty. The trial court granted the defendants' motions and the plaintiff appealed.

While the appeal was pending on the dec action against the city, the parties reached a settlement. Both sides compromised significantly to reach a fair settlement. Counsel for the plaintiff, Jon Marko, provided case information.