

## **Mistakes by Lifeguard, Club Led to \$12 Million Drowning Verdict**

### **Death blamed on inattentive lifeguard, lack of safety procedures at Boys Club**

By Christian Nolan,

September 22, 2014

A jury has awarded \$12.3 million to the family of a 5-year-old girl who drowned in the indoor pool at Waterbury's Boys & Girls Club in 2008.

"A big verdict doesn't make up for the loss of a child but this provides some measure of justice for them," said Kathleen Natri of Koskoff, Koskoff & Bieder, who handled the case with William Bloss, of the same firm. "They feel like they got closure."

The incident giving rise to the lawsuit is every parent's worst nightmare when it comes to children and a swimming pool.

Natri said that Retemar Robinson registered her 5-year-old daughter, Brianna Murray, and her 7-year-old son, Darnelle Richards, in an after-school program at the Waterbury Boys & Girls Club that included swimming in the club's indoor pool.

At 4 p.m. on June 9, 2008, 32 young children got into the pool. There was just one lifeguard, Amanda Golymbieski, 20, a Red Cross certified lifeguard who previously worked at a local YMCA. She had six months of experience at the Boys & Girls Club at the time.

That day, Natri said, Golymbieski was wearing capri pants, a T-shirt and sandals; was doing paperwork while watching the children; and drinking a Dunkin' Donuts iced coffee. Instead of being perched in the elevated lifeguard chair above the pool, she sat in a low plastic chair on the deck, toward the center divider between the shallow and deep ends.

Natri said that Murray was under 4 feet tall and did not know how to swim. The nonswimmers had been told they should stay in the shallow end. Nevertheless, when Murray became submerged in the pool, another little girl noticed and told Murray's 7-year-old brother. "Imagine being 7, he didn't know what to do," said Natri.

Nastri said the boy spent several minutes trying to pull his sister out of the water, but she was too heavy. So he got out of the pool, ran around to the other side, and asked the lifeguard for help. The plaintiffs claimed the lifeguard told the boy to pull his sister toward the side of the pool where the lifeguard was sitting. The lifeguard then walked to the poolside and lifted the girl out of the water.

The lifeguard then left the pool area while Murray's body lay on the deck "surrounded by kids not knowing what was going on," said Nastri. The lifeguard came back with some of the club's staff members.

"There were limited attempts at some CPR," the attorney said.

Nastri said it is important to compress the chest of those who have been submerged in water to get oxygen into their lungs. She said proper resuscitation efforts should have involved two rescue breaths, then 15 quick compressions. That process gets repeated, quickly, so the victim gets 100 chest compressions in one minute.

But there were no chest compressions for 11 minutes, until paramedics arrived and took over resuscitation efforts.

Murray was then taken to Saint Mary's Hospital in Waterbury, where she regained a pulse. She was then transferred to Yale-New Haven Children's Hospital, where she was pronounced brain dead the next day. Her mother then decided to take her off life support and donate the girl's organs. She passed away on June 11.

The girl's family later filed a wrongful-death lawsuit against the Boys & Girls Club.

"There was a lot that went wrong," said Nastri. "One of the things that's so interesting to me is that none of the things they did wrong would have cost them any money to do better, except hiring another lifeguard. Things like sitting in the lifeguard chair, knowing how to do CPR ... There were a lot of systemic failures by the club."

Nastri said the pool should have had a special mask used in the CPR process. This prevents direct mouth-to-mouth contact, which is important in potential drowning cases where foam from the victim's mouth, blood and vomit can interfere with resuscitation efforts.

In preparation for trial, the plaintiffs lawyers deposed the lifeguard, who also testified at trial. Bloss cross-examined her and caught contradictions in her testimony by replaying for jurors her prior videotaped deposition.

For instance, during the deposition, the lifeguard said there were 32 children in the pool, which combined with the fact there was only one lifeguard, was a clear Red Cross violation. However, at trial, the lifeguard said there was only about 18 or 19 children in the pool at any one time. The plaintiffs attorneys then played the tape from the deposition, which revealed the conflicting testimony.

"We were nervous about going at her too hard," said Natri, who added that Bloss "struck a perfect balance" between getting the lifeguard to discuss all of the safety failures by the club "and pointing out all the things she had done wrong herself."

The Boys & Girls Club was defended by Gregory Anderson, of AndersonGlenn in Florida. Anderson did not respond to messages left by the Law Tribune.

"It's an unfortunate verdict for a terrible accident," Anderson told the Hartford Courant. "The Boys & Girls Club plans to appeal and stands by its position that nothing that we did or didn't do caused the accident."

Anderson argued at trial that the girl did not drown, but had a cardiac event while swimming. The medical examiner noted that the girl suffered from mitral valve prolapse, commonly known as a heart murmur.

However, Natri countered that such a condition is common and would not cause such a significant cardiac event while in the pool. Both sides had expert witnesses testify about the condition.

The defense also argued that the mother contributed to the negligence leading to her daughter's death by not informing Boys & Girls Club officials that her daughter did not know how to swim and also had asthma. The mother testified that she had, in fact, told them that her daughter couldn't swim.

Natri said the case took years to get to trial due to the legal problems of the now-former executive director of the Boys & Girls Club. Robert Generali was sentenced in 2012 to 57 months in prison for stealing money from a federal program, tax evasion and wire fraud.

Generali had blamed his behavior on the drowning. Generali's attorney, Alex Hernandez, had asked the sentencing judge for leniency, arguing that Generali was guilt-ridden. That guilt, said Hernandez, led to alcohol abuse and then the crimes.

Natri has questioned Generali's sincerity, noting Generali made no efforts to apologize, reach out, or improve the safety of the club's pool and aquatic programs. She said because of Generali's criminal case, the defense in the civil case attempted to change venues and delay the civil trial. Only the delay efforts were successful.

At the civil trial, a deposition from Generali was played for the jury. The judge told the jurors of his three felony convictions so they could assess his credibility as a witness.

The civil trial began Sept. 4 in Waterbury Superior Court before Judge Terence Zemetis. The jury deliberated for three and a half hours before awarding roughly \$12.3 million to the plaintiffs on Sept. 18. Specifically, the jury awarded the girl's estate \$7.2 million. Of that amount, \$3 million was for pain and suffering, another \$3 million was for loss of enjoyment of life's activities and \$1.2 million went toward loss of earning capacity.

The brother was awarded \$5 million for bystander emotional distress for having watched his sister drown. An additional \$90,000 went toward medical and funeral expenses.

Nastri opined that she believes the entire verdict is collectible, despite the Boys & Girls Club's insurance policy limits. She expects the defense to file post-trial motions.

The attorney added that the past few years have been tough on young Darnelle Richards, and she hopes the jury's verdict helps him understand he isn't to blame for his sister's death.

"It's been horrible for him since the day of the event," said Nastri. "Beyond the fact his sister died, he was in the pool trying to get her out and he still believes he was somehow at fault. He has really, really suffered for that."