

# THE CONNECTICUT LAW TRIBUNE

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## VERDICTS & SETTLEMENTS

# \$3.8M Settlement Reached In Double Fatality

Complex dispute resolved through global agreement

**John Irwin, et al v. Elizabeth Gessinger, et al:** On the night of Feb. 28, 2004, defendant Elizabeth Gessinger, of New Canaan, apparently dozed off, losing control of her Ford Explorer. It came to rest in the left and part of the right southbound lanes of Interstate-95 in Old Lyme.

A car containing Joshua Zuckerman, of Waterbury, with passenger Matthew Rice, stopped on the right shoulder, leaving a cramped opening for traffic. Driver John Irwin and Gina Smith, an unmarried couple in a third car, attempted to navigate between the vehicles, struck the parked Zuckerman vehicle and rolled over. Irwin and Smith were fatally crushed by the roof.

Irwin's estate, initially represented by out-of-state counsel, sued Gessinger and Zuckerman. Daniel W. O'Neill, of Manchester's Vliet & O'Neill, was the accident reconstruction expert for the Smith estate. He faulted Gessinger and Irwin for excessive speed, improper braking and failure to control their vehicles.

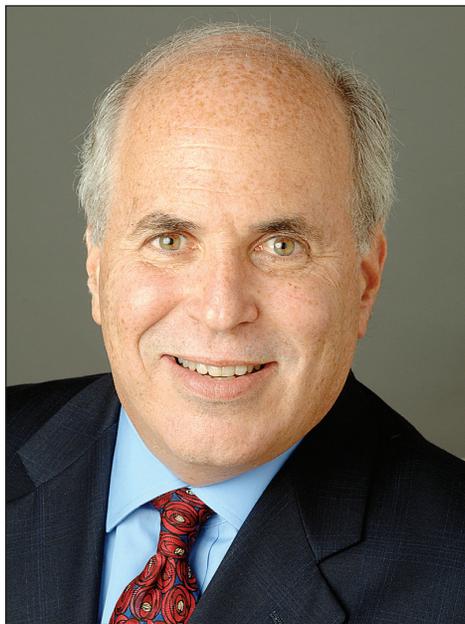
The Irwin suit transferred to **Stewart M. Casper**, of Stamford's **Casper & de Toledo**, who chose reconstruction expert John Detch, of Riverdale, N.J. Detch determined from the black box in Irwin's Chevrolet Blazer that he attempted a last-minute defensive maneuver, without success.

Irwin's comparative negligence exposure was high, and any jury result over 50 percent would bar any recovery. Irwin's defense counsel was **J. Kevin Golger**, of Bridgeport's **McNamara and Kenney**.

The Smith estate brought suit against

Irwin, Gessinger and Zuckerman, and was represented by **Marc D. Padellaro**, of **Monohan & Padellaro** in Cambridge, Mass., and **Frank J. Scinto**, of **Gager, Emerson, Rickart, Bower & Scalzo** in Southbury.

Zuckerman and Rice, in the parked car



STEWART M. CASPER

on the shoulder, sustained neck and back injuries. They sued Gessinger and the Irwin estate. Zuckerman's defense counsel was **Terrence J. Molinari**, in the **Law Offices of John F. Della Jacono** in Rocky Hill, and his plaintiff's counsel were **Gregory O'Brien**, of **Moore, O'Brien, Jacques & Yelenak** in Cheshire, and **Frederick L. Murolo**, of

Cheshire's **Murolo & Murolo**. Murolo also represented Rice.

Gessinger's coverage totaled \$3.5 million; Zuckerman and Irwin both had \$100,000-per-person, \$300,000-per-accident policies. Gessinger's defense counsel was **Michael L. McDonnell**, of the **Law Offices of Rodd J. Mantell** in New Britain. Both Gessinger and Irwin feared liability in excess of their policy limits. The parties mediated before former Superior Court Judge Joseph A. Mengacci in Middlebury. "He was incredibly careful, thoughtful and patient," said Casper.

Irwin, who lived with Smith in a Queens apartment, was 40, and in excellent health. He was senior vice president of sales, eastern region for Viacom, Inc. "To do that job you've got to be well liked, and John was well liked," said Casper. His annual salary earnings were \$387,286. Southern Connecticut State University economist Gary M. Crakes, PhD., projected Irwin's lifetime earnings at \$5.1 million. His loss of life's enjoyment was high as well. Irwin was an avid golfer and sailor who ran, swam, kayaked, bicycled and fished.

Smith was the senior vice president of sales for National Cable Communications in Manhattan. Her estate's lawyer, Scinto, used Analytic Resources of Woodbridge to calculate Smith's lifetime earning loss as between \$3.6 and \$6.5 million.

In a global settlement, Smith's estate received \$2,100,320; Irwin's \$1,654,807; Rice \$40,000 and Zuckerman \$17,500.

—By Thomas B. Scheffey