

# Jury Awards \$5.5 Mil. For Shooting of Parking Lot Attendant

The Legal Intelligencer  
By Amaris Elliott-Engel  
September 12, 2008

The logo for 'The Legal Intelligencer' is displayed in a stylized, gothic-style font. The text is white and set against a dark, textured background that resembles a book cover or a parchment page. Below the text is a thin, dark horizontal line.

A Philadelphia jury has awarded \$5.5 million to the parents of a Hahnemann University Hospital parking lot attendant killed by a gunshot after the jury concluded the hospital was negligent in its security arrangements.

William Palmer, 18, was shot in the chest around 10:30 p.m. May 30, 2006, by an ex-employee while working as a parking lot attendant at the hospital's lot on Race Street, between Broad and 15th streets, according to the plaintiffs' and defense's pretrial memorandums in *Graves-Glenn v. Hahnemann University Hospital*.

After being shot, Palmer was able to "stagger" to the hospital, but despite emergency trauma surgery, Palmer suffered massive blood loss and was pronounced dead at 11:42 p.m., the plaintiffs' memorandum said.

Hahnemann contracted with U.S. Security Associates for security and parking lot services, and Palmer worked for U.S. Security Associates.

Judge Nitza I. Quiñones Alejandro presided over the seven-day trial that concluded Wednesday.

The 12-member jury awarded \$5.5 million on the plaintiffs' Survival Act Claim, according to the judge's chambers and the verdict sheet.

Palmer's shooter, Len Ellis, had robbed the same parking lot attendant's booth May 18, 2006, the plaintiffs' memorandum said.

The plaintiffs argued in their memorandum that Hahnemann was negligent in its security arrangements for a booth that was remote from any of the hospital's entrances because security guards rarely patrolled the area, the booth didn't have bullet-resistant glass and Hahnemann didn't undertake serious enough efforts to improve security at the booth after Ellis' first armed robbery at the booth.

The plaintiffs also argued that the lot didn't need to be left open until 1 a.m. because there were other nearby parking options and that the lot should have been automated, the plaintiffs' memorandum said.

"If the lot had been automated, William Palmer would not have been there handling cash," the plaintiffs' memorandum said. "If the hours of the parking lot had been altered ... William Palmer would not have been there and would not have been shot. Finally, if the parking lot booth had utilized bullet resistant glass ... the 9mm bullet would not have struck William Palmer."

Defendants Hahnemann University Hospital and its parent entities, Tenet HealthSystem Hahnemann, Tenet HealthSystem Philadelphia and Tenet Healthcare Corp., argued in their pretrial defense memorandum that several security modifications were undertaken between the May 18 and May 30 robberies.

Hahnemann said a panic button was installed at the booth; security lights were installed to increase lighting in the area; a panning surveillance camera was fixed to focus on the booth; a sign was placed on the booth warning that the booth was under surveillance; and a system was implemented to record the checkpoints of the security patrol.

Thomas R. Kline of Kline & Specter said he and his co-counsel, Dominic R. Guerrini, picked apart those arguments by proving that a Hahnemann security captain didn't know that the panic button existed; the security lighting had been on order but not yet installed; the person responsible for watching the security camera wasn't watching the camera at the time of Palmer's shooting; the signage warning of the surveillance wasn't placed on the cashier's booth; and that there were no patrols taking place at the time of the shooting.

Ellis and his lookout accomplice Zaire Thompson were both convicted in Palmer's death and are serving sentences of life in prison, according to court papers.

Hahnemann also argued that its facilities were not in a high-crime area, and a crime committed by a former employee was not something its reasonable safety measures could thwart.

"The unique aspect of the crime, a crime committed by a former employee, negates the benefit of any professional risk analysis or assessment since any such risk analysis or assessment would not have accounted for this type of crime," the defense memorandum said. "Further, Hahnemann University Hospital tracked crime statistics and incident reports on each event that occurred in the years leading up to Mr. Palmer's death and this statistical compilation demonstrated that there was no risk of gun violence or homicide."

"The case presented a unique challenge ... of holding an institution responsible for the death of an individual in the face of a murder ... and we needed to show that Hahnemann's conduct was a factual cause of the injury," Kline said.

The case also was challenging because there were only two categories of damages: Palmer's loss of earnings and his pain and suffering for the 20 minutes between being shot and being intubated prior to surgery, Kline said.

Hahnemann also said in papers that automating the lot and closing the lot at night weren't reasonable responses to the robbery and would have affected "the mission of the healthcare provider as a whole."

Kline said he was able to elicit testimony that the lot was automated within months of Palmer's death.

Timothy I. McCann, Andrew S. Kessler and Matthew S. Heilman of McCann & Geschke represented Hahnemann. McCann could not be reached for comment Thursday.

Kline said they won the case by calling the key players making security decisions at Hahnemann, including Hahnemann Chief Executive Officer Michael Halter, Hahnemann's Chief of Operations Thomas Runkle and Justin Clark, a U.S. Security top staffer, and establishing through a series of admissions and concessions that the hospital's security measures were unreasonable.

Alejandro denied the plaintiffs' motion to amend the case to add punitive damages but did determine the jury could make an "adverse inference" from the fact that Hahnemann didn't maintain logs and e-mails related to its security patrols and the parking lot booth were destroyed, Kline said.

The defendants offered \$250,000 before trial, but there were no significant settlement discussions in a case where the parties were "diametrically opposed on liability in the case," Kline said.

According to the defense pretrial memorandum, Ellis and Thompson were confronted by a security officer on patrol, and Ellis and the officer talked about Ellis' former employment as a security officer at Hahnemann. But Kline said there was an agreement by both sides that there would be no testimony admitted from the criminal trial.

Palmer was working at Hahnemann to help pay for college, according to court papers. He was set to start college at Cheyney University.

Palmer's future loss earning capacity was estimated between \$2.9 million if he had retired at the age of 60 with a bachelor's degree and \$3.7 million if he had retired at the age of 70, the plaintiffs' memorandum said.

Palmer's parents, Teresa Graves-Glenn and William J. Palmer, are both police officers, according to court papers. •