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News Story

Hoping for changes in the wake of tragedies

By *GUY LORANGER, Staff Writer*

In an instant, their lives changed forever.

Elaine Gorski was driving down a country road in Chatham County in August 2003, with her daughter behind the wheel of their 1997 Chevy Blazer. A bee flew in and distracted the daughter, causing her to drive off the road and roll the SUV in an accident that left Gorski a quadriplegic.

Just a few months later, in October 2003, Pat Gates' 27-year-old son, Stephen, stopped along the Interstate to fix a flat tire.

Stephen, a rising star broadcaster with the Tar Heel Sports Network, was returning to Chapel Hill for a football game after visiting his family's Greensboro home.

He had parked just a few inches into the road. A driver, believed to be drunk at the time, behind the wheel of a Cadillac Escalade scraped the side of his car and killed him almost instantly.

According to both Gorski and Gates, North Carolina's current laws only added to their tragedies.

Because her car had been purchased outside the state's six-year statute of repose, Gorski couldn't file a lawsuit concerning the Blazer's alleged structural defect.

And for more than a year, Gates' family fought with an insurance company that insisted it owed her family nothing because her son had been contributorily negligent.

Today, they are hoping to see those laws change forever and have spoken to lawmakers about two bills that could accomplish that goal.

"If wishes could come true, I'd wish that changing this law could help us, but I know it won't," Gorski said. "But still, it's my responsibility as a person on this planet to take care of other people.

"I've lost a lot, and I can't see this happening to other people. Not to speak up would be wrong."

Disparate justice

Gorski's situation especially hit home for Raleigh attorney Jay Trehy, a longtime friend of Gorski and her husband, Jeff.

Trehy said he had long considered the state's six-year statute of repose to be an "arbitrary law" that could work injustice in certain situations, preventing a plaintiff from bringing a lawsuit in North Carolina that could be brought under similar circumstances in another state.

But it was shortly after Gorski's wreck that he worked with another client who suffered the same type of accident and the same type of injury caused by the same structural defect.

The only difference: The other client's accident occurred within the six-year statute of repose; Gorski's accident happened just four months beyond it.

The other client was able to sue and negotiate a settlement that allowed her to purchase a custom-built home and car that can accommodate her wheelchair, while Gorski recovered nothing.

A former financial analyst at Duke University, Gorski cannot work. Her husband supports the family through his track equipment business and takes care of his wife on an around-the-clock basis, including taking her in and out of a car that they modified for her wheelchair. Sometimes, the ramp doesn't open, and the windows don't go down. But it's all they can afford.

"Why should two North Carolinians, in the same position, have such vastly disparate justice available to them?" Trehy said.

Working with the N.C. Advocates for Justice, Trehy has pushed for the General Assembly to pass S.B. 882, which would apply the statute of repose from the state where a product was manufactured or sold instead of the blanket six-year limitations period.

Considering that North Carolina has one of the shortest statute-of-repose periods in the country, chances are that wronged consumers will benefit from the change, he said.

On April 30, he convinced Gorski to tell her story to the Senate's Judiciary I committee on the need for the bill.

"I just spoke from my heart," she said.

Said Trehy, "I think her presence muted anything that a lobbyist could say that would have had any impact on those people in the committee room."

The bill made it out of the committee with a favorable report. On May 12, the Senate passed it.

Can you imagine?

Gates said she, too, would be willing to speak to a committee in the coming weeks as H.B. 813, a bill that would abolish the state's pure contributory negligence doctrine, goes to the Senate.

Her son, Stephen, had been a sideline reporter for UNC football games and the play-by-play announcer for baseball and women's basketball.

A native of Cincinnati, his dream was to become the voice of the Cincinnati Reds and follow in the footsteps of his idol and friend, fellow UNC alum and Hall of Fame broadcaster Marty Brennaman.

On the day after Stephen's funeral, Gates said the Escalade driver's insurance company called her family to say it would refuse to pay damages because of her son's contributory negligence.

"Can you imagine somebody calling you to tell you that when you can barely get out of bed?" Gates said. "It's kind of a deliberate thing. They want to get you when you're at your weakest and hope you aren't going to fight it."

Gates and her family did fight for a year before settling their lawsuit.

They have since pushed for a change to the state's hit-and-run law, which took effect in 2005, and have sought a change to the state's contributory negligence rule.

She attended the May 12 House Judiciary I committee meeting, where H.B. 813 was forwarded to the House floor with a unanimous vote. It passed the House the next night.

"Since my son died, I've been trying to get somebody to move this forward," she said. "I can't believe this is the law in North Carolina."

When asked, Gorski said she was unaware of Gates' tragedy or the contributory negligence rule, but she identified with the Gates' sense of frustration.

"It's ridiculous," she said.

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