



ATTORNEYS

- Carol P. Michel
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WWHGD Partners Kevin Williams and Carol Michel Save Client Millions with 10 Minutes to Spare

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Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC (“WWHGD”) partners Y. Kevin Williams and Carol Michel were called in exactly one week before trial to try a case involving a gruesome abduction, rape and murder in New Mexico.

After a two week trial, the case went to the jury and, given the facts of the case, the jury was expected to return a prompt verdict. However, after the jury had been deliberating for a day and a half, the Plaintiff’s attorney finally initiated serious settlement discussions and after some negotiating a settlement was reached.

While reading the settlement on the record, there was a knock on the jury door and ultimately it was discovered that the jury had reached a verdict only minutes after the settlement was reached.

The settlement, which represented a fraction of the verdict, was a hard-fought victory for Williams and Michel. “This was a difficult case for us because we were called in only seven days before the case went to trial, but we were able to keep the jury out for a long time,” said Williams.

“The Plaintiff’s attorney thought she had a slam dunk case with an enormous verdict,” Williams continued. “By keeping the jury out, she got nervous and sent over a settlement offer that started the negotiations. If the jury hadn’t been out for so long, the settlement wouldn’t have been reached.”

The case was an uphill battle from the start. The Plaintiff was a 26-year-old single mother of three children who was working a second job as a night shift clerk in privately-owned convenience store in Hobbs, New Mexico. She was trying to get her life in order and had enrolled in the junior college across the street from the convenience store to earn a teaching degree.



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On January 16, 2002, the Plaintiff was working the night shift alone and it was only her second evening on the job. The Plaintiff's claimed the convenience store was poorly lit, had no video surveillance and was located on a remote stretch of road where few traveled in the dark hours of the night.

At approximately 2:30 a.m., the Plaintiff was abducted from the store and removed to a remote location where she was raped and stabbed 57 times.

From a legal perspective, the case was equally grim. The Plaintiffs developed all major crimes at every store in the chain going back 30 years. The Plaintiffs argued the regional convenience store chain had a history of leaving lone females to work the graveyard shift in spite of the fact that almost 1,000 crimes had been committed in the stores, including violent crimes against store clerks.

In fact, the Plaintiffs showed crimes had become so rampant, particularly in the town where the Plaintiff worked, that six months prior to this incident, the Hobbs Chief of Police had called the president of the company to complain that the store was off the charts for felonies and needed cameras, lights and at least two clerks working overnight or, in a hauntingly accurate prediction, it was "setting itself up for someone to be killed."

Also, the Plaintiffs showed the convenience store chain had even sued its own insurance company a few years prior for excessive payouts for claims and injuries, including workers' compensation claims, arguing that the insurance company had not provided sufficient training for avoiding these types of allegations. The convenience store was awarded \$17 million but Plaintiffs claimed it did not use the money to correct the lighting and security problems.

Facing these issues, the store's long term counsel turned to WWHGD. WWHGD has built a solid reputation as being the go-to firm for handling a client's worst cases, even when brought in mere days and weeks before trial. "The firm in New Mexico that was handling the case knew us and knew our reputation," said Williams. "We got the call about a week before trial and it was an extremely busy week to say the least."

Williams said that the defense theory was to focus on the fact that there are some insane, evil people who commit horrific crimes even in the face of sophisticated security measures.

In this case, the man who committed the crime struck again about a year and a half after killing the Plaintiff, abducting and killing another clerk. However, this time the killer entered a larger store with video surveillance and two clerks on the premises. The killer's identity was captured on video and DNA evidence linked him to the Plaintiff's abduction and murder, which had remained unsolved. However, he did know his second victim and had a drug history with her.

"This was a double-edged sword," said Williams. "On the one hand, the video surveillance helped capture the killer. On the other hand, it showed that security cameras, extra lighting and two clerks on duty didn't prevent him from striking again. We argued that there are just some people who commit horrific crimes



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even when there are security measures in place.”

After lengthy jury deliberations, the Plaintiff’s attorney began to doubt her bargaining position and initiated settlement talks that culminated in a binding agreement mere minutes before the jury returned with a verdict.

“The Plaintiff’s attorney was obviously extremely disappointed when she looked down and saw the numbers on the verdict form,” said Williams.

Since this incident, New Mexico has enacted regulations that now require convenience stores to staff two clerks for all overnight shifts and maintain video surveillance of their premises.