

Denny's shooting victims awarded \$46M

Family-dining company's insurance firm to pay \$13M after settlement

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A jury has awarded \$46 million to plaintiffs in a case involving a 2007 shooting at a Denny's restaurant near Seattle, after finding the family-dining company **negligent for not adequately protecting its customers and employees.**

The award, delivered late Monday from a 12-person jury in King County Superior Court after a four-week trial, is a record amount for personal injury cases in Washington State. The jury had deliberated for four days.

Denny's insurance company has negotiated a settlement that reduced the award payment to \$13 million in exchange for an agreement from Denny's to not appeal the verdict, which would likely have tied the case up for several years.

In a statement issued Tuesday, Denny's officials said, "We continue to believe that this tragedy was the result of a random act of violence that could not have been foreseen or prevented by the company or its local restaurant personnel.

"We understand that our insurance carrier chose to enter into a settlement for a much lower amount in the interest of bringing closure to this matter," the statement continued. "Our sympathies have always been with the victims of this senseless act and we hope the best for them in the future."

Most of the \$13 million will go to Steve Tolenoa, a 31-year-old Kent, Wash., resident who was paralyzed from the chest down after a gunman shot randomly into the busy Denny's dining room in January 2007.

Ron Perey, the attorney representing the three victims in the case, said about \$60,000 of the damages was awarded to two others, including Lisa Beltran-Walker, who was shot in the knee, and her husband Carl Walker, who said he suffered from emotional distress after the incident.

Denny's chair Debra Smithart-Oglesby and chief financial officer Mark Wolfinger took the stand during the trial, reportedly arguing that the company was not aware of a **history of problems at the restaurant** and that the incident was an unforeseeable random act of violence.

In the lawsuit, attorneys for the victims argued that the Denny's location where the shooting occurred, which was company owned at the time, though now is a franchise location, had a history of dangerous incidents that occurred during the late night "bar rush," when nearby bars closed and revelers arrived at Denny's for pancakes and eggs.

On the night of the shooting, Tolenoa was dining at Denny's after working the night shift when a fight broke out among patrons at another table.

Frank Evans, the man who started the fight, left the restaurant, but returned a short time later with a gun, shooting 11 bullets at random into the busy dining room. One of the bullets severed Tolenoa's spine. Evans was later convicted on multiple counts of first-degree assault and is serving a 62-year prison sentence, Perey said.

According to the lawsuit, employees at the restaurant and the company's security director had urged officials at the chain's Spartanburg, S.C. headquarters to take steps to make the property safer at night after a string of other incidents.

The verdict also found the restaurant's manager at the time, Linda Hoffert, negligent in the case, though she is not responsible for any damages.

Perey said he was pleased that Denny's agreed not to drag out the dispute with appeals, which will ensure that Tolenoa receives better care for his injuries sooner.

He added that he hoped the company would see the verdict as a message that more needs to be done to beef up security during late night hours.

"The verdict is a message to Denny's that they must do better. They have to pay attention to the people that eat in these restaurants 24/7," he said.