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THE ROANOKE TIMES

Wednesday, August 25, 2010

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| S | M | T | W | T | F | S |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 | | | | |

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Wednesday, March 30, 2005

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Suits filed in Solar Haus accident

The mother of the man who died in a fall during a punk rock concert, and three who were injured, have sued.

By **Joe Eaton**
381-1665

Civil lawsuits asking for \$160 million became the latest twist in the story of a 2003 punk rock concert at a Blacksburg rental house where one man died and others were injured after falling from a third-story window.

The family of the dead man, a 19-year-old Virginia Tech student, filed suit early this month against the owner and residents of the house and the band that played that night. Three others who fell and were injured have also filed suit.

Together, they are asking for a combined \$160 million in compensation and punitive damages.

The four attended a performance of the Southern California band Death by Stereo on Sept. 29, 2003, at Solar Haus, a Blacksburg apartment building where alternative bands had played concerts for decades.

As the band finished its set shortly after 10 p.m., between 50 and 80 people were dancing wildly when six people crashed through an 8-foot-wide set of windows that were lined with mattresses and quilts to muffle the noise.

They landed on a slab of concrete below. Daniel James Martin, a Tech student from Emerald Isle, N.C., died of his injuries. Several others were injured. Three of them - Jason Kontkanen, Richard Spiers and Thomas Upton - filed lawsuits this month along with Martin's mother.

Kontkanen's skull was fractured, and he suffered brain damage from the fall, his lawsuit claims. Spiers and Upton suffered numerous fractures.

Martin's mother is suing for \$40 million in compensation and damages. Spiers and Upton are suing for \$50 million each. Kontkanen is asking for \$20 million. Spiers' attorney, Paul Thompson of Roanoke, said the four plaintiffs are working together on the cases.

The lawsuits argue that Solar Haus owner Homer Hurst, a retired Tech professor who owns a number of rental properties; tenants Ashley Pack, 21; Lenore Oliphant, 24; and Clint Parsons, 25; and Noonkester Real Estate - the company that rented the house - are liable for Martin's death and the other's injuries.

Together they created a dangerous environment for people who came to see the band play, the lawsuit claims, by failing to install guardrails or other safety devices between the dancers and the large windows that gave Solar Haus its name, and by continually violating local zoning ordinances against holding dances without a permit.

The lawsuit also blames the band. The five members of Death by Stereo riled up the fans and egged them on, even though they knew the crowd was in danger, it claims.

In 2003, an eyewitness to the concert said the band had finished its set, then had been asked back for two more songs and was playing the second encore when the accident occurred.

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Hurst would not comment Tuesday aside from saying that many of the claims in the lawsuit are incorrect. After the 2003 incident, Hurst said he knew about the concerts and did not mind that his tenants held them at the house.

Hurst's Arlington attorney, Molly Peacock, also would not comment, nor would Scott Noonkester of Noonkester Real Estate. The band's management and the former residents of Solar Haus could not be reached for comment.

A Montgomery County General District Court judge took under advisement the criminal charges against Oliphant, Pack, and Parsons in February. Those charges will probably be dismissed if the defendants maintain a clean record.

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- Columnists
- Corrections
- Headline VA
- Local news
- National news
- New River Valley news
- Politics
- Special reports
- Weather

Sports

- Auto racing
- Baseball
- College sports
- Golf
- High school sports
- Outdoors
- Sports TimesCast
- UVa basketball
- UVa football
- VT basketball
- VT football

Entertainment

- Arts
- Book reviews
- Comics
- Events calendar
- Extra/InsideOut
- Food
- Lottery
- Movie listings/reviews
- Music
- Puzzles
- TV listings

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- Celebrations
- Community news
- SWoCo
- Botetourt View
- So Salem
- Laker Weekly
- smithmountainlake.com
- NRV Current
- Newspaper in Education
- Obituaries
- Opinion/Editorials
- The Edge

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- Find a Biz
- Big Lick Sports Picks
- Contests
- Datasphere
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