

Austin American-Statesman

Wife gets \$6 million in intramarital suit

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In a highly unusual case made possible by a recent change in state law, an Austin woman severely injured during a birthday party at her home has won a \$6 million court judgment against her husband.

Austin radio personality, businessman and former City Council candidate Lee Lane did not defend himself in the lawsuit, but he said he was shocked by the amount of the judgment against him.

The suit was brought by his wife, Alicia, who suffered severe head injuries and is partially paralyzed as a result of the accident on a motor scooter during the party at the Lane home last June.

Filed last October, the suit charged Lee Lane with serving "excessive amounts of alcoholic beverages to" the driver of the scooter. The suit said Lane should not have allowed his scooter to be ridden and that he should have

provided a helmet for his wife, who was riding on the scooter with the driver.

A 1987 Texas Supreme Court decision overturned more than 100 years of legal prohibition against one spouse suing the other for injuries caused by negligence, but even under that ruling, Lane vs. Lane is unusual.

Most interspousal suits are brought at the same time as divorce proceedings, a situation that does not apply with the Lanes. In addition, most negligence suits are actually suits against the insurance companies that provide coverage to the defendant. That also is not the case in Lane vs. Lane, and if that is the hidden agenda to be revealed in a later lawsuit, no one involved will talk about it.

"I really can't say anything right now," Lee Lane said Tuesday. "Things are still pending for us, as far as I am concerned."

Referring to his wife's attorney

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Sunday, January 20, 1991

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to the suit, Marc Rosenthal, Lane added, "I will say this, I can assure you that Mr. Rosenthal is not on the top of my hit parade."

"It's probably a nice guy, but it came as quite a shock to me, to some extent, as far as the (size of the) actual judgment."

"As soon as I'm able to say more, I will," said Lane, who now works for KVET-KASE radio.

Alicia Lane was celebrating her 35th birthday when she got on the back of the scooter being driven by Brian J. Jackson, a guest at the party. According to police, Jackson was intoxicated when he missed a turn and struck a curb in the 4700 block of Baicones Drive, only a few blocks from the Lane's condominium. Her skull was fractured in three places, and she was

in a coma for two weeks.

In the week before the accident, Lee Lane had lost a runoff against City Council Member Max Nofziger and lost his job as an announcer at KKML-FM (Major 95). After the accident, Alicia Lane lost her job in the insurance department of a chiropractic firm.

Jackson, who was wearing a helmet, was charged with driving while intoxicated. His case has not gone to trial.

Alicia Lane still receives daily treatment at the Rehabilitation Hospital of Austin and still uses a wheelchair. Although her cognitive abilities are not impaired, she can speak and write only with great difficulty and receives much of her food through a tube.

According to the lawsuit, Lee Lane got the scooter out of storage during the party but warned guests

not to ride it out of the parking lot because the insurance on the scooter had lapsed.

Because Lee Lane never responded to the lawsuit, his wife was granted a judgment by default on Nov. 30.

On Monday, a hearing was held before District Judge Jeanne Meurer to determine how much in damages to award. Again, neither Lane nor an attorney for him appeared at the hearing. Alicia Lane was present, in a wheelchair. Meurer granted Rosenthal's request for a \$6 million judgment.

Rosenthal presented as evidence a videotape documenting Alicia Lane's current condition and affidavits from doctors saying she would need extensive medical treatment in the future.

If the suit was aimed at an insur-

ance company representing either of the Lanes or Jackson, there is no evidence of that. No suit has been filed against Jackson or against any insurance company.

Rosenthal said it would be up to Lee Lane to invoke any insurance coverage he may have.

Asked about possible future lawsuits, Rosenthal responded, "Due to the status of this case, I can't comment on that. But the bottom line is he is partially responsible for the injuries she received."

For more than a century, that bottom line did not exist in Texas law.

Lawsuits between spouses for personal injuries were prohibited until the state Supreme Court in 1987 threw out the doctrine, which developed from common law. The rationale during the past hundred

years had been that the government had an interest in preserving family harmony and therefore discouraged such suits. With the advent early this century of car

insurance — and insurance fraud — courts also held that collusion and fraud by married couples would be too easy if one was allowed to sue the other for injuries.

Over several years around the turn of the century, through legislation called the Married Women Acts, women were given a series of legal rights, including the ability to file suits over contracts and property damage.

But lawsuits between spouses for personal injuries were still prohibited because, in the words of a 19th-century Pennsylvania court, "the flames which litigation would kindle on the domestic hearth would consume in an instant the

conjugal bond, and bring on a new era indeed — an era of universal discord, of unchastity, of bastardy, of dissoluteness, of violence, cruelty and murders."

In 1977, the Texas Supreme Court decided to allow suits over intentional, rather than negligent, damages. The court said the harmony of a home where a beating had occurred could hardly be damaged further by a suit.

By 1986, a Texas appeals court questioned why a wife could sue her husband "if he broke the leg of her mule, (while) the courts continue to clothe him with immunity if he tortiously broke his wife's leg."

Finally, in a 1987 case called Price vs. Price, which resulted from a motorcycle accident, the court threw out the ban on such suits.