

Martin & Jones Settles Two Wrongful Incarceration Civil Rights Lawsuits

A team of attorneys and staff at Martin & Jones, along with co-counsel at Patterson Harkavy, resolved two significant civil rights cases stemming from long-term wrongful incarceration. Martin & Jones worked with Greg Taylor on his civil rights lawsuit against five former employees and officials with the North Carolina State Bureau of Investigation (“SBI”). The same team at Martin & Jones also worked with Dwayne Dail on his case against the City of Goldsboro and various police department officials.

In July 2013, 51-year-old Greg Taylor closed a chapter in his life that never should have been written. In a settlement with the state of North Carolina and five former officials and employees of the SBI, Greg was awarded \$4,625,000 for the 17 years he spent in prison for a crime he did not commit. In April 1993, Greg was wrongfully convicted of murder. In February 2010, the North Carolina Innocence Inquiry Commission and a

three-judge panel held a week-long evidentiary hearing and unanimously found, by clear and convincing evidence, that Greg was innocent. Greg was represented at the hearing by Chris Mumma and the North Carolina Center on Actual Innocence. Three months later, in May, then Governor Perdue granted him a full Pardon of Innocence. In his lawsuit, Greg asserted claims based on intentional misrepresentation of evidence and failure to disclose exculpatory evidence. As a result of Greg’s exoneration, the North Carolina Attorney General ordered an independent audit of the SBI’s Serology Section, the section responsible for not properly reporting blood evidence, evidence that would have cleared Greg. The real killer has remained at large for more than 20 years while the SBI focused on the wrong man.

Dwayne Dail was wrongfully convicted in 1989 of the rape of a 12-year-old girl and sentenced to life imprisonment. The conviction resulted primarily from the child victim’s mistaken identification of Dwayne as the assailant. Dwayne maintained his innocence and sought scientific testing of all crime scene evidence in an effort to clear his name. In the mid-1990s, when DNA testing was accepted by the courts and when his family could afford to pay for such testing, Dwayne and persons on his behalf sought access to the crime scene evidence from his case, which they had been assured would be preserved. Despite those assurances, the City of Goldsboro and the Goldsboro Police Department told Dwayne in the Fall of 1995 that all evidence had been destroyed and nothing remained that could be tested. Not convinced that all evidence had been destroyed, Dwayne’s family and staff with the North Carolina Center of Actual Innocence repeatedly made inquiries over the next 12 years, and the response from the Police Department remained the same.

In August 2007, the Center on Actual Innocence made one final inquiry about any remaining evidence. This time, they were told that some pieces of evidence from several old cases were kept in the “bicycle room” at the Police Department, and there was a possibility that evidence in the Dail case was located there. A Police Department employee then located evidence from the case, including the victim’s nightgown. With the cooperation of the Wayne County District Attorney, DNA testing was promptly conducted and revealed a complete DNA profile which excluded Dwayne as the perpetrator and demonstrated that another individual, by this time incarcerated in the state prison system for another crime, had committed the rape. Dwayne was represented by Chris Mumma and the North Carolina Center on Actual Innocence in connection with efforts to prove his innocence through DNA testing.



Pictured are: Attorney Chris Olson, client Dwayne Dail and attorney Spencer Parris.

In August 2007, after spending 18 years imprisoned for a crime he did not commit, and after being told for 12 of those years that there was no evidence, the charges against Dwayne were dismissed, and he was released. A few months later, Dwayne was granted a full Pardon of Innocence. In August 2010, Dwayne filed a civil rights lawsuit against the city of Goldsboro and Goldsboro Police Department officials seeking damages for the 12 years of wrongful incarceration attributable to the failure to properly respond to legitimate requests for access to crime scene ev-

idence. On October 22, 2013, at the age of 45, Dwayne was awarded a settlement of \$7,520,000. In a news release, the city of Goldsboro stated, “The Goldsboro Police Department now has policies in place to absolutely ensure that these unfortunate errors will never be repeated.”

The North Carolina Center on Actual Innocence (“Center”) is a non-profit organization dedicated to identifying and correcting wrongful convictions in North Carolina to ensure that justice has been served for those imprisoned for crimes they did not commit, for the victims of those crimes, and for the true perpetrators. Greg Taylor and Dwayne Dail were exonerated and freed from prison thanks to the hard work and dedication of attorneys and staff with the Center. The Center relies on private contributions to continue their important work. A fully tax-deductible donation can be made to the Center via its website (www.nccai.org) or by mail at P.O. Box 52446, Shannon Plaza Station, Durham, NC 27717-2446.

Longtime Employees Mary Dean and Bill Smith Retire



Mary Dean and Bill Smith both came to Martin & Jones after long careers as insurance adjusters with large insurance companies. They both retired at the end of 2013 from long careers with Martin & Jones as well.

Bill had spent 19 years as an adjuster for an insurance company before joining Martin & Jones, and he retired as an adjuster for our law firm, also after 19 years. Bill noted at his retirement party that this was the second job he’d held since college. He worked with personal injury and workers’ compensation claims and clients out of the firm’s Raleigh office.

Bill joined the firm in 1994. He explained, “As far as I know, I was the first adjuster hired here.” He said he will miss “all the great people I’ve been fortunate to work with and for. I consider myself extremely fortunate to have had the opportunity to work here.”

While he looks forward to retirement, Bill said he still plans to keep himself busy with a part-time job near the house at the beach in Brunswick County that he and Toni, his wife of 36 years, recently started calling home.

“I’ve had some sort of job since I was 10 years old,” he laughed. “So I don’t think I could go cold turkey and retire to a rocking chair just yet. I’m only 60, so I hope I can work at least another couple of years.”

Despite not being ready for a rocking chair, Bill said he and Toni “really enjoy the laid back feel of the coast. We spend a lot of time on our screened porch reading a book with music from the iPod coming through the outside speakers.”

It seems difficult for Mary to stop working completely as well. Mary reduced her work schedule to three days a week in 2013. She’s taking another step toward full-time retirement as she eases back to working two days each week. Mary came to Martin & Jones in the summer of 1998 after working for 29 years as an adjuster for an insurance company.

Mary is 69 years old and she has worked more than half of her life. When asked if she is looking forward to retirement, she answers, “Some days yes, and some days no. Retirement will be a BIG change for me,” she said with an emphasis on the word big.

In her work in the medical malpractice group at Martin & Jones, Mary reviewed nearly every potential medical malpractice claim that came to the firm for investigation over the last 16 years. Mary has reviewed “mounds and mounds of medical records” on behalf of hundreds of victims of medical malpractice who reached out to the firm each year for help. She coordinated physician and nurse reviews of those records as well.

In her time away from medical records, Mary enjoys exercising and walking with her dog. “I love to exercise, and I walk a lot,” she shared. “My very spoiled dog Skye loves to walk with me. I actually walk an average of 50,000 steps a week.” Those steps translate into more 25 miles a week. As if all that doesn’t keep her active enough, Mary also enjoys china painting as a hobby. She has two kilns at her home where she fires her china that she sells around the Triangle and beyond. Volunteer work also keeps her quite busy. Mary recently started volunteering at the special needs nursery at her church. Mary said she does look forward to having more time to pursue her volunteer work and china painting and to have more time to spend with Bobby, her husband of 28 years.

“I can say I have truly loved working at Martin & Jones,” smiled Mary. “The attorneys truly care about their clients and employees. I certainly will have fond memories of all the people I have worked with.”

More than half of the employees at Martin & Jones have been with the firm for more than ten years.

Greg Martin Retires

As of January 2014, Gregory M. Martin retired from Martin & Jones and the practice of law. Greg was a senior partner who had been a member of the firm since 1985.

Greg grew up in Concord, North Carolina, which was for many decades a “mill town.” So when he first came to the firm, he was happy to spend several years successfully representing mill workers throughout North Carolina suffering from the occupational lung disease byssinosis (“brown lung disease”). Greg’s practice evolved in the 1990’s, as he began to represent people catastrophically injured in auto and truck accidents.

The focus of his practice then shifted to product liability claims, with a particular interest and expertise in pharmaceutical product liability cases. Over the last two decades, Greg successfully represented hundreds of people who had been seriously injured by dangerous prescription drugs and medical devices, such as Fen-Phen, Vioxx and Sulzer hip implants. As a result of his dedication and success on behalf of his clients, Greg was recognized by his peers both as a Super Lawyer and a Best Lawyer.



Hunt Willis Joins Firm

Attorney Huntington “Hunt” Willis joined Martin & Jones in late summer of 2013. His practice focuses on representing people injured by the negligence of others, including product liability, fraud, bad faith and deceptive trade practices.

His first three cases with the firm have been personal injury claims. Hunt settled all three without going to trial. His first settlement was for a client who underwent two shoulder surgeries after his car was struck by a blown out tire on the highway. His second settlement was on behalf of the family of a special needs child who was badly burned at a restaurant due to the carelessness of an employee. Most recently, Hunt obtained a settlement for a client who was struck head on by a teenage driver.

Hunt graduated from Campbell University School of Law, cum laude in 2013. While in law school, he was managing editor of the Campbell Law Review and a member of the national moot court team. Hunt also served as an extern to the Honorable Rick Elmore of the North Carolina Court of Appeals. Upon graduation, he was inducted into the Order of Barristers and awarded the Safran Moot Court Award for outstanding contribution to the school’s appellate advocacy program.

After receiving his undergraduate degree from Appalachian State University in 2005, Hunt was commissioned as an officer in the United States Army, where he served as a captain. He is a former intelligence officer and veteran of the Iraq War.

Hunt lives in Raleigh with his wife, and they are expecting their first child.

Top Ten Consumer Tips from the Office of the North Carolina Attorney General

- Say no to high-pressure sales pitches. If the offer is only good today, walk away.
- Always read contracts carefully before you sign them, and make sure all written documents match what you've been promised. Never sign a document that you don't understand or that has blanks to be filled in later.
- Be cautious when responding to telemarketers, door-to-door sellers, and email or text pitches. Instead of responding to unsolicited offers, decide when and where you want to go shopping.
- You never have to make a purchase or pay taxes, fees or other expenses in advance to win a prize. Anyone who demands an upfront fee for a prize is trying to scam you.
- Never give out your Social Security Number, credit card or bank account number or other personal information to anyone you don't know who contacts you.
- Be skeptical of upfront fees. North Carolina law makes it illegal to collect advance fees for some types of work, such as foreclosure assistance and debt settlement help. If an advance payment is required for other kinds of transactions, use a credit card when possible. This gives you some protection if your order doesn't arrive or the work isn't completed.
- Do business with companies you know or that come recommended by those you trust. Check out companies with the office of the attorney general at 1-877-5-NO-SCAM or your local Better Business Bureau before making major purchases.
- Join the National Do Not Call Registry to cut down on unwanted telemarketing calls. To sign up, call 1-888-382-1222 from the number you wish to register or visit www.donotcall.gov. Once you're on the list, report Do Not Call violators to the office of the attorney general.
- Check your credit report regularly. You're entitled to one free credit report per year from each nationwide credit bureau. To access your free credit reports, visit www.annualcreditreport.com or call 1-877-322-8228.
- If an offer sounds too good to be true, it probably is.

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MJ *notes*
NEWSLETTER

If you do not wish to receive this newsletter, please call Martin & Jones toll-free at 1-800-662-1234 and request to be removed from our mailing list. Or, if any of your contact information changes, please let us know so that we can be sure this and other mailings reach you.

If you have legal questions, call us at:
800-662-1234
or visit us online at:
www.MartinandJones.com

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MJ *notes*

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- Harmful Products
- Defective Prescription Drugs
- Mesothelioma
- Asbestos-Related Lung Cancer
- Railroad Injuries/FELA
- Construction Site Accidents
- Workers' Compensation
- Wage & Hour Class Actions
- Insurance & Investment Fraud
- Small Business Litigation
- Whistleblower Lawsuits
- Wrongful Conviction/Civil Rights
- Consumer Rights

If you have legal questions,
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Whistleblower Lawsuits Help Government Recover Payments Procured Through Fraud

A whistleblower can be any person who "blows the whistle" on his or her employer or other business or organization for wrongdoing. When a whistleblower reports wrongdoing that is defrauding the federal government out of money, it falls under the False Claims Act, and that individual may bring a "qui tam" lawsuit against the wrongdoer on behalf of the government.

Whistleblower ("qui tam") lawsuits are brought by individuals and seek to recover money for the government. Typically, the whistleblower will receive 15-25 percent of the total recovery. Additionally, whistleblowers are specifically protected from employer retaliation.

In recent years, the government has ramped up efforts to recover monies paid based on fraudulent claims. Whistleblower cases have become a crucial weapon for state and federal governments in combating fraud and containing healthcare costs. In 2012 alone, almost \$5 billion was recovered by the United States Department of Justice through qui tam lawsuits.

The False Claims Act targets those who knowingly make or cause to be made false or fraudulent claims and those who knowingly make or use false records or statements in support of a false or fraudulent claim. The Act also provides for punishment of those who knowingly make false claims to evade obligations owed to the government, including taxes. The Act provides for penalties ranging from \$5,500 to \$11,000 per false claim.

The False Claims Act empowers ordinary citizens to become plaintiffs in lawsuits against those who defraud the government. Whistleblower suits are used as the vehicle for the government to recover money that was paid by a government agency or entity based on a fraudulent claim. The individuals who report the fraud and bring the qui tam lawsuit are called "relators." A relator files a sealed complaint against the wrongdoing entity on behalf of themselves and the government and submits information to the Department of Justice.

A similar provision exists under the North Carolina qui tam statute and provides for the information to be shared with the North Carolina attorney general. The Department of Justice or the attorney general decide whether to take over the claim by intervening, settle the claim, or move to dismiss it. Relators stand to get a substantial portion of the proceeds from either a successful lawsuit or a settlement. Whistleblower provisions cover fraud and other illegal activity in a number of different areas, including financial transactions, medical and pharmaceutical sales, healthcare, and taxes. In most cases, whistleblowers are ordinary individuals who by virtue of their employment come across some evidence that their employer or some other business with which they deal is committing fraud against the government.

Qui tam litigation is a specialized area of the law, and potential whistleblowers should be careful to select a qualified attorney. Not many lawyers have experience in qui tam litigation. At a minimum, a person should seek an attorney with experience in federal civil litigation. Martin & Jones is currently handling qui tam litigation.