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Miami Beach drowning victim's kin gets \$5M

Years after a man drowned while trying to rescue a swimmer off Miami Beach, his family was awarded \$5 million.

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The family of a New York jazz musician who drowned trying to save a rabbi's wife in treacherous riptides off Miami Beach has won \$5 million in damages in a decade-old case that had raised serious liability issues for seaside communities that don't provide lifeguards at public beaches.

U.S. District Judge Alan Gold late Friday ordered Delaware-based Monticello Insurance Co. to pay damages to the wife of Zachary Breaux. The insurance carrier had refused to pay, even though the family's lawyer and the city of Miami Beach had negotiated a settlement.

Gold also ordered the insurance company to pay \$750,000 in damages to the husband of a New York school secretary, Eugenie Poleyeff, whom Breaux tried to save during a midwinter vacation in 1997. The city also negotiated that settlement, but the insurer had refused to pay.

Zachary Breaux, an up-and-coming smooth-jazz guitarist, raced into the water while his wife and daughter searched desperately for a lifeguard.

Frederica Breaux and Israel Poleyeff, a rabbi, sued Miami Beach, asserting that the city should have had lifeguards and rip tide warnings at the public beach.

The crux of the lawsuits: Miami Beach provided parking, showers and concessions near the 29th Street beach to cater to the public, but didn't station lifeguards, supply lifesaving equipment or put up rip tide warnings.

"The city at the time had created the appearance of a protected beach," said attorney Howard Pomerantz, who represented the Breaux family. He noted that soon after the drownings, the city erected a lifeguard stand at that beach.

"All we were saying is they should have posted signs that this was not a protected beach," he said in a statement.

"The city long ago realized that if this went to trial, a jury sympathetic to the Breaux family's case could return a huge verdict," Pomerantz said. "The city wanted to do the right thing and settle with the victims, but they became a victim themselves when Monticello abandoned them by denying both coverage and defense."

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The judge ordered Monticello to pay not only the damages to the Breaux and Poleyeff families, but also to reimburse the city for its \$200,000 obligation under the settlements. Gold also ordered the insurer to pay interest on the damages as well as attorneys' fees and costs for the decade-long case.
