

## In The News

# T-Mobile, Samsung Escape Texas Suit Over 911 Death

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*Law360*

Samsung and T-Mobile have beat back allegations they were negligent in providing emergency location services when a Texas woman was killed while on the phone with 911, after a Texas federal judge ruled Tuesday there were too many intervening factors for the companies to have played a role in her death.

District Judge Jorge Solis, after previously dismissing the first complaint, dismissed the allegations with prejudice, saying the family's argument that the location services could have worked faster was too attenuated to be plausible. Solis said that, in addition to the other parties' actions in the suit over Deanna Cook's 2012 murder, such as a 50-minute delay from Dallas police after they were dispatched, Cook's family had not pled sufficient facts to surpass an immunity for 911 equipment manufacturers in Texas statute.

"In other words, unlike a missing or defective seatbelt, defendants' current technology and service did not and would not prevent Cook from being saved," Judge Solis wrote.

Samsung, which manufactured the phone Cook called on, could not have in any way acted to help save Cook's life after the 911 operator was eventually able to determine her location on the call, the judge wrote. The fact that the phone could have provided more information about her location would not have prompted police to act any faster, enter the home once they arrived, or dispatch paramedics in time to save Cook's life, Judge Solis said.

"In short, the plaintiffs fail to plead facts from which the court can reasonably infer a plausible cause of action 'based on the notion that if the Samsung phone had identified [Cook's] location in some period of time 'quicker than several minutes,' everything would magically have changed," Judge Solis wrote.

In addition, T-Mobile and MetroPCS, who carried Cook's call, had a similar lack of liability, according to the judge.

"[T]he carrier defendants point out that they did not control, contribute to or have any knowledge of the actions of the city or its employees, and none of the intervening actions or resulting harms as pleaded were foreseeable to them," Judge Solis wrote.

The facts for neither category of defendants rose to the gross negligence standard required to impose liability under the Texas law, Judge Solis wrote. The judge also dismissed claims under a Texas product liability statute, saying that claim could only have been brought by Cook herself, not her family or her estate, under the terms of the statute.

Aubrey Pittman, attorney for the family, said they were disappointed with the decision, but were still reviewing their options.

"We haven't had a chance to fully digest it and do some additional research to decide whether we are going to appeal it," Pittman said.

After suing Samsung, the carriers and the city in 2012, the parties have been locked in various fights over motions to dismiss, ultimately culminating in Judge Solis dismissing the original complaint in June for failure to state a claim based on the immunity from Texas statute.

Later that month, the family filed its amended complaint, arguing the companies' lack of action should qualify as gross negligence under the statute.

Counsel and representatives for the defendants could not be immediately reached for comment Wednesday.

The Cook family was represented by Aubrey Nick Pittman of The Pittman Law Firm PC

MetroPCS and T-Mobile were represented by Stephanie D Clouston and Jason Shyung of Alston & Bird LLP. Samsung was represented by Ye-Whei Peter Chen and James Jordan of Munsch Hardt Kopf & Harr PC. Dallas was represented by the city's attorney office.

The case is Cook et al v. T-Mobile US Inc et al, case number is 3:14-cv-02907, in the United States District Court for the Northern District of Texas.

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