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**Plaintiffs win \$4M in suit over deadly accident**

*Jury finds driver's employer responsible for crash but absolves GDOT*

By Janet L. Conley, Associate Editor

When a 77-year-old man driving a vanload of senior citizens home from a trip to the Callaway Gardens' Fantasy in Lights festival drove off the road last year, the accident resulted in one death, a serious injury—and a nearly \$4 million jury verdict.

After about three hours of deliberation, a Troup County Superior Court jury last month cast those damages against driver Billie Vernon Edmondson and the town of Woodland, Ala., which owned the van and hired Edmondson to drive it. Edmondson, according to court documents, had been in the hospital just four days before the accident—he had received chemotherapy and was taking a variety of medications. Edmondson has since died of cancer-related complications.

"The witness testified that the driver never applied his brakes," said Randall S. Haynes, who, along with partner Larry W. Morris and associate Emily H. Nelson of Morris, Haynes & Hornsby in Alexander City, Ala., represented the two plaintiffs.

The town had admitted Edmondson was negligent and acknowledged its vicarious liability for that negligence, so the primary issues at the trial before Chief Judge William F. Lee Jr. were the amount of damages and whether the Georgia Department of Transportation—a non-party—also was at fault.

Despite requests from the defense, jurors did not find that GDOT helped cause the one-vehicle crash by its allegedly defective construction and maintenance of Highway 27, a segment of road in LaGrange known locally as "Dead Man's Curve." Under 2005 changes to Georgia's tort laws, defendants may ask juries to find non-parties liable for damages. Such findings are not popular with plaintiffs, as they reduce the amount the defendant owes but don't require the non-parties to pay the damages allocated to them.

The issue of GDOT's potential liability was the most contentious one in the trial, said Haynes. "I think they felt like Mr. Edmondson was physically and mentally unfit to be driving," Haynes said of the jurors' likely rationale for ruling against the defendants on the issue of GDOT's liability. "No disrespect to him as a human being, but he wasn't capable, given his own medical conditions, to serve as a driver of a van loaded with senior citizens.

"It was a sharp and dangerous road, but our position is that there are sharp and dangerous roads in every town in every state, but if the driver had followed the warnings, this never would have happened," Haynes said.

The defendants, Edmondson and the town of Woodland, were represented by partner J. Matthew Maguire Jr. and associate E. Righton Johnson of Balch & Bingham's Atlanta office, and by C. David Stubbs of Stubbs, Sills & Frye in Anniston, Ala.

Maguire said his team argued that given the highway's 90 degree turn and testimony from a defense expert that the alignment of the highway was improper and not compliant with applicable standards, the road-sign warnings were inadequate.

The consolidated pretrial order in the case notes that there were "4 to 6 separate and distinct warning signs."

Maguire, who already has filed a notice of appeal, said he was not yet ready to discuss his clients' grounds for appeal. He noted that the judge verbally instructed jurors that they could consider GDOT's potential liability, but the judge did not grant a request for a verdict form containing a line for GDOT's liability.

The absence of GDOT's liability line, Maguire said, was confusing to jurors.

Also at issue during the trial were negligent supervision and negligent entrustment claims by the plaintiffs, alleging, essentially, that the town should have known Edmondson was unfit to drive. Such a finding would have served as the basis for a punitive damages claim. Haynes said it was "a matter of dispute" what the town knew about Edmondson's medical condition.

Maguire said he moved for summary judgment but believes the judge never ruled on that request. No punitives were awarded in the case.

Another point of contention at trial turned on damages caps. "Alabama has a statute which protects municipalities from liability in excess of \$100,000. The way we read that statute, it prohibits a municipality from settling for more than \$100,000. The accident happened in Georgia, and normally, Georgia law would apply," Maguire said.

He went on, "We tried to get the judge to apply Alabama law under comity"—he spelled out the word—"C-O-M-I-T-Y, which I think he interpreted as C-O-M-E-D-Y. He denied that motion, so now what's going to happen is they have these judgments in Georgia, but the defendants don't have assets in Georgia, so they have to enforce these judgments in Alabama and our position is the Alabama municipal cap is going to apply."

Haynes had a different view. "The judge ruled against the defense on that particular issue, which I think was a slam dunk. The accident happened in Georgia," he said. Tort caps, he added, are a matter of substance, not procedure.

The jury, made up of eight women and four men, including seven Caucasians and five African-Americans, ultimately awarded \$2.4 million for pain and suffering during her lifetime to the estate of Jeanette Holloway, who was 79 at the time of her injury. She was transported via helicopter to Columbus Regional Hospital, and was rendered a quadriplegic by the accident. She died about a month before the case went to trial. The jury also awarded her daughter a wrongful death verdict of \$1.25 million, and awarded plaintiff Connie Meadows, 66 when the accident occurred, \$340,000 in compensatory damages for a knee injury and resulting medical care.

Haynes and Maguire said the verdict exceeds the insurance policy limits for both the town and the van driver. The town is insured by Alabama Municipal Insurance Corp. up to \$2 million, they said. Edmondson, Maguire said, had a policy from Alpha Insurance Co. insuring him up to about \$100,000—which leaves an estimated \$1.9 million to be paid out of pocket if the appeal leaves the underlying verdict intact.

Both Haynes and Maguire said the plaintiffs made a \$2 million settlement offer prior to trial, which the defendants rejected.

Haynes said he is requesting a supersedeas bond to secure the verdict on behalf of his clients; Maguire said he could contest such a request on the grounds that the defendants cannot afford it. A hearing is set for Thursday.

The cases are *Meadows v. Town of Woodland*, No. CV-10-423, and *Murphy v. Town of Woodland*, No. CV-424.

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