

OCTOBER 5, 2015

DAILY REPORT

A SMART READ FOR SMART READERS

An ALM Publication

Insurance Company Pays \$2M Policy Limit for Death of 91-Year-Old

KATHERYN HAYES TUCKER

THE CHILDREN OF A 91-year-old man on hospice care who died after a wreck have reached a \$2 million policy limit settlement with the insurance carrier for the truck that hit him, according to the family's attorney.

"It was a hard-fought case and one that we wanted to try," said plaintiffs attorney Brandon Peak of Butler Wooten Cheeley & Peak. "But at the end of the day," Peak said, the defendant "did the right thing" in paying the policy limit.

Peak handled the case with John "Buddy" Morrison III of Butler Wooten and Matthew Hennesy of Farrar, Hennesy & Tanner in Douglas.

The defendant was Penn Millers Insurance, also known as ACE Agribusiness, represented by Steven Kyle of Bovis, Kyle, Burch & Medlin. "It was just a case that needed to be settled," Kyle said.

J.D. Gibbs Sr., a farmer who had been an Army medic in World War II, died in November 2013, two days after the wreck.

Gibbs was driving his pickup on Sledge Road toward his home in rural Worth County near the town of Ty Ty. He had just stopped to talk with neighbor Milton Sledge on the driveway of the Sledge home, according to the Georgia State Patrol Specialized Collision Reconstruction Team report.

Sledge told the troopers that he saw a "bobtail" tractor—a tractor-trailer truck without a trailer—speed around a curve, lose control and hit Gibbs' pickup. Sledge said Gibbs was driving slowly close to the right shoulder as he usually did when he went out to visit his neighbors. Sledge's brother told troopers he also saw the

wreck from his tractor and faulted the speeding semi.

Gibbs was airlifted to Macon Medical Center, where he was treated in the intensive care unit. He died two days later. Peak said Gibbs was conscious and aware of his suffering. Up until the wreck, Gibbs, whose wife had already died, was living independently even though he was on hospice care for congestive heart failure. The suit against the owner of the truck, Ty Ty Farms, was brought by his grandson, administrator of his estate, on behalf of Gibbs' four daughters.

The family also made a negligent hiring claim against Ty Ty Farms, alleging the driver should not have been allowed to be behind the wheel of the truck because he had exceeded the company's limit of three moving violations in three years. Peak said the driver had nine violations, including three for speeding more than 20 miles an hour over the limit.

Jeffrey Kidd of Collision Specialists in Gainesville investigated the wreck for the plaintiffs and also determined that Gibbs was in his lane and the bobtail that hit him was speeding and crossed over the center line, Peak said.

Peak said he and Hennesy, who originated the case, were pleased that "J.D.'s name was cleared" and that they were able to "help obtain justice for such a fine family."



Brandon Peak

The case is *Gibbs v. Penn Millers*, No. 14EV001439H. It was first filed in Fulton County State Court and then transferred to Worth County.

Reprinted with permission from the 10/5/15 edition of the DAILY REPORT © 2015 ALM Media Properties, LLC. All rights reserved. Further duplication without permission is prohibited. Contact: 877-257-3382 reprints@alm.com or visit www.almreprints.com. # 451-11-15-07