

THURSDAY, NOVEMBER 17, 2016

DAILY REPORT

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\$11M Settlement Ends Truck Accident Trial on First Day

GREG LAND | gland@alm.com

WITH JURY SELECTION just about to start in Gwinnett County, the lawyers for a man who lost a leg while working as a trash collector hammered out an \$11 million settlement with the company that owns the truck that caused the accident. Lead plaintiffs attorney Brandon Peak said he and the rest of his team, firm colleagues Tedra Cannella, Ramsey Prather and Rory Weeks, along with Gerald Davidson of Lawrenceville's Mahaffey Pickens & Tucker, were gearing up for a trial lasting into next week when they reached an agreement.

"It's kind of bittersweet because you always want to see what a jury's going to do," said Peak. "The good news is that we've ensured that he's going to



JOHN DISNEY/ALM

Brandon Peak (from left), Gerald Davidson Jr. and Tedra Cannella represented the man whose legs were crushed in the accident.

get the prostheses and medical care he's going to need for the rest of his life."

Defense attorneys Douglas Burrell and Melody Kiella of Drew Eckl & Farnham did not immediately respond to request for comment. But David Dial,

whose firm was brought in less than a month before trial, said the settlement was in everyone's best interest.

"We are pleased that the parties were able to resolve this matter," said Dial, whose team included firm colleagues

Richard Hill II and Jackson Dial. The plaintiffs lawyers “did a great job, and they got top value for their client, who had no fault at all. He was truly a victim,” Dial said.

The Jan. 6, 2015, accident happened in Ringgold in North Georgia’s Catoosa County when Bert Jessmon, then 31, was work-



David Dial

ing as a trash collector on a garbage truck. The truck—driven by Jessmon’s father, who also worked for the private waste-collection

company—had stopped to pick up trash at a house on a rural road. A commercial wood-chipper truck and trailer traveling the same direction, owned by W.A. Kendall & Co., had stopped behind the trash truck.

As both trucks idled on the road, a passenger car driven by Elizabeth Smiley came up from behind. After confirming that no traffic was coming the other way, plaintiff’s court filings said Smiley attempted to pass both trucks, pulling into the oncoming lane of traffic, and was almost past the chipper truck when it suddenly pulled out and struck her car on the passenger side.

Smiley’s car spun clockwise, pinning Jessmon—who had been walking to pick up a garbage can—against the sharp “tippers” used to lift garbage cans on the back on the truck.

Both of Jessmon’s legs were severely injured, but his right leg was essentially “pinched off” at the hip, and his femoral artery severed. Peak said Jessmon was fortunate that a passerby with experience as an Army combat medic happened upon the scene and applied a tourniquet to Jessmon’s right thigh, likely saving his life.

No one was charged in the accident, Peak said.

Jessmon initially sued W.A. Kendall and its driver, James Starks; Smiley was also named in anticipation that the Kendall defendants would try to apportion liability to her, Peak said. In September, after Kendall accepted full liability, Smiley was dismissed from the case.

Peak said there was little discussion about settling as the case progressed and that shortly before trial Gwinnett State Court Judge John Doran asked whether there was any point in resuming them.

On Nov. 14, the parties settled.

Dial said the settlement had been assisted by the defense’s admission of liability and sole proximate cause, in addition to “several rulings concerning expert testimony the defendants intended to introduce which impacted the ability to defend the damages case.”

“Obviously, all of these issues affected the amount of the settlement,” he said.

Peak said the resolution was particularly gratifying as Jessmon, now 33, is childless and single and has had to move back in with his parents after the wreck.

His co-counsel, Davidson, agreed.

“All of the parties had great lawyers who worked hard, the court and his staff worked hard, and at the end of the day we feel like we achieved a great result that will help Bert for the rest of his life,” said Davidson in a statement. 