

# DAILY REPORT

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## North Ga. jury awards rare large verdict

**\$1.78M GRANTED** in case of drunk student who rear-ended family after church service

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A RABUN COUNTY Superior Court jury awarded a \$1.78 million verdict to six members of a family whose minivan was struck by a drunk driver on their way home from church, plus another driver hit by the van. The case settled 10 minutes after the verdict for \$1.5 million, the insurance policy limit.

The defendant was a then-20-year-old Georgia Tech student who admitted to driving drunk in his father's BMW after a weekend of partying with his Georgia Tech fraternity brothers at Lake Burton.

Immediately after the Dec. 8 verdict on compensatory damages was read, Mountain Judicial Circuit Chief Judge Russell W. Smith gave the jury a 10-minute break before beginning the punitive damages phase of the trial. The jury had checked "yes" to punitive damages on the verdict form. Although the highest pre-trial offer from the defense had been \$525,000, the case settled during the end of the break for the State Farm Insurance Co. policy limit of \$1.5 million, according to plaintiffs' attorney Matthew E. Cook of McDonald, Cody & Cook in Cornelia, who represented the family of Florencio Gonzalez Sr.



**Matthew Cook and Gerald Cody** said they overcame jury biases, a tough venue and strong opposing counsel.

and another driver who was also hit, Irma Jo Gregory.

Cook, who tried the case with partner P. Gerald Cody Jr., said his clients faced several challenges. To start with, the Northeast Georgia mountain town of Clayton is a conservative venue. Cook

said the biggest personal injury verdict he could find on record in Rabun County was \$330,000. "That's what State Farm was banking on," Cook said.

Another difficulty was with State Farm's defense attorney himself, William S. Cowser of Cowser & Avery

in Athens, who represented Stanley Bennett Bryant. Cook said Cowser has tried a lot of cases in the area and has a track record of success in holding down verdicts. Besides being an experienced defense attorney, Cowser is a member of the Georgia Senate, serves on the Judiciary Committee and was Gov. Sonny Perdue's floor leader. Cowser didn't return calls seeking comment.

Also, the case had racial undertones. The plaintiffs—the father and his five children hit by the drunk driver—are Hispanic. In light of Georgia's recent debates over toughening immigration laws, Cook said, "people are hypersensitive" about race. And it's an issue trial lawyers are facing more and more often, he added.

Cook dealt with any potential racial tensions head on in voir dire. "A lot of people have strong feelings about race when they're talking about generalities. But when you're talking about a specific human being, it's different," he said. He began talking about race with the potential jurors by asking them this question: "How many of you know some white people you like and some you don't? And how many of you know some Hispanic folks that you like and some you don't?"

Phrased in such a way, the question drew a "yes" from everyone and planted a thought in their minds, the plaintiff's attorney hoped.

Another challenge to the plaintiffs' bid for a high verdict was that medical expenses were only \$200,000. "It was a tremendous collision and thankfully, no one died or was paralyzed. It's amazing," Cook said. "We really had only one serious injury."

The worst injury was to 10-year-old Ricardo Gonzalez, to whom the jury awarded \$1 million. The rest of the verdict was split among the other plaintiffs.

Both Ricardo's legs were broken, and he will need two additional surgeries, Cook said.

The Gonzalez van was "ripped open" by the wreck, Cook said. A rear seat with two of the children buckled in was thrown 30 feet into the highway.

The crash happened on the afternoon of July 18, 2010 in Mountain City. The Gonzalez family was heading home from Sunday church services, Cook said. As the minivan sat with its blinker flashing at a red light waiting to turn left, Bryant crashed into it from behind, according to the plaintiff's summary in the pre-trial order.

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—Attorney Matthew Cook, representing the plaintiffs

"The force of the collision pushed the Gonzalez van into oncoming, southbound traffic causing the van to strike Mrs. Irma Jo Gregory's vehicle head on, which flipped Mrs. Gregory's vehicle onto its roof," the pre-trial order states.

The plaintiffs sought punitive damages "because Stanley Bryant's blood alcohol content was in excess of .22 at the time of the wreck and his judgment was substantially impaired by his intoxication," the pre-trial order states. A blood alcohol content above 0.08 is considered DUI. Also, Bryant was underage at the time.

The defense summary in the pre-trial order says Bryant was traveling north in the right lane until the car in front of him indicated an intent to make a right turn. "Stanley switched lanes to the left-hand northbound lane. When he changed lanes, Stanley saw the plaintiffs' vehicle stopped in the left hand lane awaiting an opportunity to make a left-hand

turn onto Hitching Post Lane. Stanley attempted to stop his vehicle in response, but was unable to bring his vehicle to a stop on the wet roadway before colliding with the rear end of the vehicle," the defense summary states. Also in the pre-trial order, the defense admits that Bryant "was negligent in the operation of his vehicle and that he was under the influence of alcohol at the time." Bryant pleaded guilty to DUI.

The complaint also named Bryant's father, John P. Bryant, as a defendant for allowing the son to drive the BMW. The father admitted in court records that he had given his son permission to drive the car, but denied negligence.

The verdict seems to indicate that a jury pool's feeling about drunk driving may trump other factors, even in a conservative venue, according to Cook.

The plaintiff's may have had another advantage: home court. Cook is a native of Rabun County. Following his graduation from Mercer University Law School in 1999, he practiced with Butler Wooten in Columbus until this year. In February, he moved his plaintiff's practice north to join the firm of Douglas W. McDonald Sr. and Phillip G. Cody Jr.

Cook has kept his North Georgia mountain accent.

The case is *Gonzalez v. Bryant*, No. 2010-CV-0545-S. 