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# DAILY REPORT

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## Jury Awards \$6M to Trucker Who Died After Steel Beams Fell From Truck

The team representing the truck driver in North Carolina included a team from Georgia's Cook Law Group.

GREG LAND

A North Carolina jury awarded \$6 million to the estate of a truck driver who suffered severe brain injuries and eventually died after he was struck by a steel beam on a load he had just delivered.

Plaintiff's lawyer Matthew Cook said the total judgment will be about \$7.7 million, since prejudgment interest starts accruing the day a lawsuit is filed under North Carolina law.

"Their best offer right before trial was \$550,000, and we counter-offered for \$2.8 million," said Cook.

North Carolina is one of five states that generally bar a plaintiff from recovering damages if they bear any liability for a claim, and Cook said that provision likely led the defense to "roll the dice" that the jury would allocate some of the fault to the deceased trucker, Robin Colvin. The jury ultimately assigned no blame to Colvin.

Cook said insurance adjusters for defendant Lyndon Steel Co.'s primary and excess carriers were in the court-



Todd Butler (from left), Nathan Nicholson, Tammy Steffey (fiancee of the deceased), Edna Colvin (mother), Gloria Connell (plaintiff), John Ward, Robert Childres, Matt Cook. (Not pictured: Kate Cook) (Courtesy photo)

room every day of the two-week trial "and they never made any offers."

"They must have been watching a different trial than we were," said Cook, who represented the plaintiff with wife and law partner Kate Cook, Robert Childres III and Nathan Nicholson of Gainesville's Cook Law Group; Cairo solo K. Todd Butler; and Jon Ward of Greensboro, N.C.'s Pinto, Coates, Kyre & Bowers.

Lyndon was represented by Joseph Carruthers and Meg Shipley of

Wall Babcock in Winston-Salem.

Carruthers said there has been no decision regarding an appeal.

"It was a tragic case without question, and Mr. Colvin suffered a terrible injury," said Carruthers.

"We thought, under the Federal Motor Carriers Safety regulations, that he had the right to inspect and accept or reject the load," Carruthers said. "And under those regulations he has the responsibility for it until he hands it off to the receiving company."

“We respectfully disagree with the jury’s verdict,” he said.

According to a Cook’s account and court filings, the case began in 2014 when Colvin, 46, picked up a flatbed trailer loaded with steel plates and beams at Lyndon Steel’s Winston-Salem plant and hauled it to a construction site in Greensboro.

The steel had been welded into pieces necessary for the particular job, and those pieces had been loaded by Lyndon’s employees, Cook said.

“Lyndon has people trained that do nothing but load and ship steel; they do all the loading and stacking of these oddly shaped pieces,” he said. “I told the jury ‘It’s kind of a thinking man’s game: What ‘s the best way to put these on so they interlock or put in wooden pieces so they don’t shift?’”

The load had been secured with nylon straps and was then chained to the trailer, he said.

“Everything looked fine” to Colvin, he said, who drove 30 minutes to his destination and began to unchain the load.

“He took off one chain and nothing happened,” he said. “Then he took the second chain loose, and one of the nylon straps holding the load together had been abraded and worn during the trip and broke,” dumping two steel beams from the trailer and striking Colvin in the head.

Colvin suffered severe cranial and facial injuries and a massive brain bleed, he said, requiring immediate surgery.

“The doctor told his parents and sister he’d probably never recover,” said Cook, although Colvin first moved a finger, then opened an eye

and over a period of months was able to undertake therapy that allowed him to eat and begin taking a few steps.

But about six months later he “took a turn for the worse” and ultimately died, Cook said.

Colvin was single with no children, and in 2015 his sister and estate administrator, Gloria Connell, filed a wrongful death action against Lyndon in Forsyth County Superior Court in North Carolina.

Cook said his team unsuccessfully demanded Lyndon’s \$1 million primary policy coverage but were rebuffed. A mediation a couple of years ago also failed.

Cook said he had sought to include

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a claim of gross negligence against Lyndon, which would have circumvented the state’s contributory negligence stricture, but Judge Richard Gottlieb refused the motion.

During a two-week trial in Winston-Salem, Cook said about 20 witnesses appeared, including key testimony from Lyndon employees about their duties in handling and loading the company’s products.

Carruthers said the evidence indicated there was either a problem

with the tie-down chains or that the load was thrown out of balance during the trip from Winston-Salem to Greensboro.

Cook said his side argued that Lyndon bore responsibility for ensuring that the shipment was safely loaded.

“The fight was us saying, ‘Look you guys have the resources, training and knowledge; it’s your job to load it properly,’” Cook said.

“The defense was, ‘Your guy is the truck driver, it’s his job to get the load from Point A to Point B.’” Cook said. “They thought they’d win by saying he had to be negligent: ‘We got it out the door fine, then it was his mess to worry about.’”

“We were afraid the defense would not call their own employees to testify, so we called five or six or them right out of the box,” said Cook. “I think it made a difference. It was a battle between what the laborers admitted versus what management admitted.”

At closing, Cook said he asked the jury to award what they thought Colvin’s life was worth, “pain and suffering for six months and the value for the loss of a son.”

After about four hours of deliberations, on May 3 the jury cleared Colvin of any negligence and awarded \$6 million.

Afterward, Cook said the jurors had found the case very emotional and were highly complimentary of the lawyers.

*Greg Land covers topics including verdicts and settlements and insurance-related litigation for the Daily Report in Atlanta.*