

Jury's \$80M Personal Injury Verdict Deemed 'Too Low' After Plaintiff Paralyzed

By Cedra Mayfield

August 8, 2023

What You Need to Know

- Cobb County State Court jury returns \$80 million personal injury verdict to estate of woman left paralyzed in vehicular accident.
- Defense verdict awarded on plaintiff counsel's frivolous defense and stubborn litigiousness fee claims incite appeal talks.

A Cobb County State Court jury has awarded upward of \$80 million in damages after a 2016 collision left a Mississippi woman paralyzed.

Plaintiff counsel now anticipate more than \$30 million in additional attorney fees but tell the Daily Report the nine-figure outcome is too little, too late.

"The biggest hurdle that we suffered was time," said Ben C. Brodhead of Brodhead Law. "Unfortunately, [the plaintiff] passed away before we were able to get any financial help to her."

'\$25,000 With Strings Attached'

Plaintiff counsel said Juanita Gail Prichard of Columbus, Mississippi, had been driving a moped eastbound along Jim Owens Road in Kennesaw when a westbound motorist's failure



(Courtesy photos)

(L-R) Ben C. Brodhead, Ashley B. Fournet, Holli Clark and Michael Arndt of Brodhead Law.

to yield while turning left onto Owens Meadow Run forever changed the plaintiff's life.

"As a result of the collision, Gail Pritchard sustained serious injuries which resulted in quadriplegia," read the amended plaintiff complaint. "Due to Gail Pritchard's medical condition, she resided in hospitals and nursing homes until her injuries resulted in her death on October 23, 2019."

Read the Complaint

Brodhead teamed with firm colleagues Ashley Fournet, Holli Clark and Michael

Arndt to advance the personal injury case filed against defendant Marite Mendoza by Neuberger Law owner James A. Neuberger in January 2019.

Motivated to help Pritchard secure funding for healthcare treatments, plaintiff counsel made multiple attempts to resolve the case with the defendant's insurer, per Brodhead.

"It sounded as if several million dollars could be offered to resolve the case by the defense," Brodhead said. "But, so far, there have not been any offers other than policy limits of \$25,000, with strings attached, that actually has been offered."

With their client's health deteriorating and her medical bills exceeding \$887,000, Brodhead said plaintiff counsel made an offer of judgment under O.C.G.A. 9-11-68 (B) at \$17.5 million and a \$40 million interest offer under O.C.G.A. 51-12-14.

As concern mounted for Pritchard's health, Brodhead said plaintiff counsel lowered a subsequent offer "all the way down to \$7.5 million" in hopes of advancing an agreement.

But when prolonged negotiations produced no resolution, plaintiff counsel's focus shifted to getting the case before a jury capable of awarding damages.

"We tried to get the case to trial as soon as we could, so that we could get help Ms. Pritchard get additional treatments to try to save her life," Brodhead said. "We felt as if the insurance company, which was Progressive Insurance, was trying to delay the case."

Brodhead said Pritchard, and her father who took over her case following her death, both

died before the dispute made it to trial on July 28.

'Contests All Issues'

More than six years after the collision, opposing counsel gathered before Cobb County State Court Judge Diana M. Simmons for what would become a five-day liability dispute.

Advising as an appellate consultant, Bondurant Mixson & Elmore partner Mike Terry joined the plaintiff team at trial.

Plaintiff counsel urged jurors to award damages for Pritchard's pain and suffering as well as the subsequent medical, funeral and burial expenses incurred by the plaintiff's estate.

Across the aisle, R. Chris Harrison and Jackson A. Griner of Downey and Cleveland handled Mendoza's defense on behalf of Progressive Insurance.

The defense duo did not respond to a Daily Report request for comment but in a pre-trial defense brief denied that their client's "actions caused or contributed to the accident at issue," in a pre-trial defense.

"The defendant contests all issues and allegations, including but not limited to: negligence, proximate cause, damages, claims presented pursuant to O.C.G.A § 13-6-11, and claims for punitive damages," the defense brief read.

'It Was Too Low'

During the initial damages phase of trial, defense counsel asked the jury to return "a defense verdict and zero compensation," according to Brodhead. After four hours of deliberations, the jury returned a nearly \$66 million plaintiff verdict on Aug. 3, instead.

Plaintiff counsel said the addition of more than \$14 million in pre-judgment interest increased the plaintiff outcome to more than \$80.2 million in awarded damages.

The verdict, which is one of the largest achieved in Cobb County State Court, left plaintiff counsel dissatisfied.

"I thought it was too low for the pain and suffering and the value of the life," Brodhead told the Daily Report. "I thought what she went through was so horrible that no amount of money would be sufficient."

Brodhead noted that plaintiff counsel anticipated recouping more than \$30 million in additional attorneys fees under the O.C.G.A. 9-11-68 fee statute, since the trial team achieved more than 125% of its offer of judgment to resolve the case.

However, plaintiff counsel's claim for additional fees tied to a frivolous defense claim under 9-11-68 (E) did not go over well during a second phase of trial with the jury. After delib-

erating for two hours, jurors returned a verdict in favor of the defense that Brodhead said plaintiff counsel now intends to appeal.

"My contention on that is that the jury gave a defense verdict on 9-11-68 (E) because the pattern charge on preponderance of the evidence was used. We argued against the pattern charge on preponderance of the evidence," Brodhead said. "We believe that if the correct definition of preponderance of the evidence had been used, that the jury would have found in our favor on that, and that we would be entitled to a new trial on 9-11-68 (E)."

Brodhead said plaintiff counsel also are entitled to attorneys fees under O.C.G.A. 13-6-11 for the defendant's alleged stubborn litigiousness prior to the filing of the suit.

Brodhead said, "We'll be asking the Court of Appeals, and possibly the trial court, to allow us to reconvene a jury regarding 13-6-11 and 9-11-68 (E)."