

DAILY REPORT

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► VERDICTS & SETTLEMENTS

Children win in airport death suit

FAMILY OF CONSTRUCTION WORKER who was run over, killed by dump truck is awarded \$5.47 million



From left, Alan Hamilton, Matthew Cook and Pat Sneed represented the four children of a 26-year-old East Point man killed at Hartsfield-Jackson airport.

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FOLLOWING A FATAL accident on the construction site of the Atlanta airport's new international terminal, lawyers

from two firms filed a wrongful-death suit against a dump-truck company. Last month they obtained a \$5.47 million verdict on behalf of the victim's four young children.

A DeKalb County jury of nine women and three men delivered the verdict on Oct. 23 after a three-day trial before DeKalb State Court Judge Edward

See *Verdicts*, page 10

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Verdicts, from page 1

E. Carriere Jr. The plaintiffs' lawyers said they were able to convince the jury that a driver of a dump truck carrying a load of dirt failed to heed safety warnings, running over East Point resident Mack Pitts and killing him.

"The bottom line argument we made was that the whole process began and ended with their driver violating safety rules," said Butler, Wooten & Fryhofer partner Matthew E. Cook.

Cook, whose office is in Columbus, worked on the case with Atlanta-based associate Alan J. Hamilton and Davis, Pickren & Seydel partner J. Patrick Michael Sneed.

The suit was filed in DeKalb State Court in June 2008 on behalf of Pitts' four children, who are aged two-and-a-half through nine years old.

The accident took place in June 2007 on the construction site of the \$1.4 billion international terminal at Hartsfield-Jackson Atlanta International Airport. The airport is adding the terminal so it can handle more of the wide-body jets that are used in international flights. The terminal, which will add 12 gates to the Atlanta airport, is expected to open in 2011.

Pitts, a 26-year-old resident of

East Point, had been working for the terminal's general contractor, Archer-Western Contractors, as a spotter, or flag man, at the site. Pitts' job was to signal directions to dump trucks on where and when to unload their loads of fill dirt.

On the day of the accident, a line of trucks had formed to wait for Pitts' signaling directions. A truck owned by A & G Trucking Inc. of Lithonia broke line and proceeded to the front of the line, according to the plaintiffs' complaint. Pitts signaled to the A & G Trucking driver, Sarah Okoro, to stop. Okoro stopped on those directions.

What happened next was under dispute during the trial, according to Pitts' lawyers. In their version of events, Okoro restarted her truck after Pitts turned his back to return to his previous location. Okoro put the truck into reverse and ran over Pitts, they said. He died about two hours later from his injuries.

"She broke line without a spotter, and she backed up without a spotter," Hamilton said.

Downey & Cleveland partner Joseph C. Parker of Marietta, representing all defendants, argued that Pitts violated workplace rules by turning his back on Okoro's truck and walking behind it, the plaintiffs' lawyers said. Parker could not be reached for comment.

Witnesses who testified at the

trial gave conflicting testimony about whether Pitts turned his back on the truck and walked behind it, Cook said.

The plaintiffs and defense also disagreed whether a dump-truck spotter was required on site by federal workplace-safety laws.

One of the trucking company's insurance carriers, Progressive Insurance Co., had made a settlement offer of \$1 million shortly before trial, Cook said.

The plaintiffs' lawyers called about five witnesses, one expert and some of Pitts' family members during the trial. The plaintiffs' key witness was driving another dump truck and was an eyewitness to the accident. The defense called four witnesses, Hamilton said. The case is *Pitts v. A & G Trucking*, No. 08A90649.

The plaintiffs have filed a separate complaint for declaratory judgment in Fulton County Superior Court against the city of Atlanta, Archer-Western and several other contractors working on the international terminal project, including Holder Construction Co., Manhattan Construction and C.D. Moody Construction. In that case, the Pitts family is seeking a judgment that the defendants are liable for about \$9 million in insurance coverage. The case is *Pitts v. City of Atlanta*, No. 2009CV170579 (filed June 12, 2009). ☞