

TOP GEORGIA VERDICTS

of 2011



TOP 25 GEORGIA VERDICTS IN 2011

RANK	CASE	DATE	COURT	HEADLINE	PLAINTIFFS' COUNSEL	TOTAL
2	Estates v. Bluffton University	6/1/2011	Fulton County State Court	Bus accident on Interstate ramp causes multiple deaths and injuries	Janine T. Avila, Henry R. Bauer, Michael R. Braun, Matthew D. Bruder, Steven P. Collier, Ted E. Cornwell, Doug P. Desjardins, Michael Ely, Blakely H. Frye, Jeffrey E. Gewirtz, Richard W. Hendrix, Robert A. Herking, Douglas R. Kertscher, David C. Knowlton, Stephen T. LaBriola, Joyce Gist Lewis, Drew R. Masse, Charles T. McGinnis, Stuart Mones, Donald C. Moore, James W. Pry, James A. Rice, Samuel L. Sanders, John A. Smalley, David W. Stuckey, Michael A. Sullivan, Kevin Weimer and James E. Yavorcik	\$25,000,000

TOP 15 CASE SUMMARIES

2. MOTOR VEHICLE

Bus accident on an Interstate ramp that resulted in multiple deaths and injuries.

Settlement: \$25 million

Case Type: Wrongful death – intersection, motor vehicle; negligence; agency; insurance law – limitation of liability

Case Name: Estates of Bluffton University college baseball team and injured individuals (34 claimants) v. Georgia Department of Transportation, Executive Coach Luxury Travel Inc., Estate of Jerome Niemeyer and Bluffton University, No. 08EV005806F

Venue: Fulton County State Court

Judge: Susan B. Forsling

Date: June 1, 2011

PLAINTIFFS:

Attorneys: Janine T. Avila, Henry R. Bauer, Michael R. Braun, Matthew D. Bruder, Steven P. Collier, Ted E. Cornwell, Doug P. Desjardins, Michael Ely, Blakely H. Frye, Jeffrey E. Gewirtz, Richard W. Hendrix, Robert A. Herking, Douglas R. Kertscher, David C. Knowlton, Stephen T. LaBriola, Joyce Gist Lewis, Drew R. Masse, Charles T. McGinnis, Stuart Mones, Donald C. Moore, James W. Pry, James A. Rice, Samuel L. Sanders, John A. Smalley, David W. Stuckey, Michael A. Sullivan, Kevin Weimer and James E. Yavorcik for Estates of Bluffton University college baseball team and injured individuals (34 claimants)

Experts: None

DEFENDANTS:

Attorney: Stephen L. Cotter of Atlanta for Georgia Department of Transportation, Executive Coach Luxury Travel Inc.,

Estate of Jerome Niemeyer and Bluffton University, (Federal Insurance)

Experts: None

INSURERS:

Hartford Fire, American Alternative, Federal

FACTS:

A settlement was reached for injuries and deaths that occurred in a 2007 wreck of a bus carrying a college baseball team. The total settlement was \$25 million.

In the early hours of March 2, 2007, defendant Bluffton University's baseball team from Ohio was traveling to Sarasota, Fla., for a tournament. The bus was on I-75 near Atlanta in the HOV lane when the driver, defendant's decedent Jerome Niemeyer, accidentally exited at Northside Drive, apparently not realizing he was on the off-ramp. The chartered bus hurtled through a stop sign at the top of the ramp. The bus crashed over a concrete barrier and through a chain-link fence onto the highway below. Seven people were killed, including the driver and his spouse, who was a passenger. The charter bus was owned by defendant Executive Coach Luxury Travel Inc.

Claims by plaintiffs against all defendants were ultimately combined into a multicase suit.

In 2008, Executive Coach and Niemeyer's estate agreed to pay \$5 million. Claims against defendant Georgia Department of Transportation for negligent design of the interstate exit were settled for \$3 million (liability limits) in 2009. Plaintiffs pursued Bluffton University for its

insurance coverage on the basis that the driver was covered under its policies. Plaintiffs argued that, because Bluffton hired Niemeyer through Executive Coach and because he was driving the bus with the school's permission, he qualified for coverage under the terms of Bluffton's policy with Hartford Fire Insurance (\$1 million limits). Bluffton's other two policies with American Alternative Insurance (\$5 million limits) and an excess coverage policy with Federal Insurance (\$15 million limits) were bound by the terms of Hartford's policy. American Alternative and Federal challenged the interpretation. After extended litigation and appeals, the Ohio Supreme Court ruled that, under the plain terms of the Hartford policy, Niemeyer was covered, and the omnibus coverage of the other two insurers was governed by those terms. Ultimately Bluffton contributed \$11 million to the settlement.

Plaintiffs consisted of 34 claimants, most of whom were college students.

INJURY:

Varying injuries to 29 plaintiffs and the wrongful death of five individuals.

VERDICT INFORMATION: \$25 million.

Approximate breakdown: \$11 million from Bluffton University; \$6 million tendered by other defendant insurance carriers; \$8 million in prior settlements with other defendants. The settlement was divided among the claimants according to the severity of the injuries.

SOURCE:

The Georgia Trial Reporter