

VIRGINIA LAWYERS WEEKLY

VERDICTS & SETTLEMENTS

Trucking accident settled for \$2M

By Virginia Lawyers Weekly Staff
February 13, 2006

On March 7, 2003, plaintiff's decedent, James Miller, was driving a truck in McDowell County, W.Va., hauling a low-boy trailer when his co-worker, driving a similar truck, got stuck on a tight curve at the bottom of the Three Forks Mountain. A pilot vehicle ahead of the two trucks used the CB radio to warn traffic coming down the mountain and waited to signal drivers without CB radio. Five gravel trucks were coming down Three Forks Mountain, traveling together and carrying stone from Pounding Mill Quarry in Virginia to gas well sites operated by GeoMet in McDowell County. Stanley Hale was driving a truck owned by Flora Contracting and was the second truck in line coming down the mountain. When the truck in front of him stopped as it approached the pilot vehicle for the stuck truck, Hale called out that he did not have any brakes and drove around the lead gravel truck, went around a curve where James Miller had stopped his truck, and struck James Miller who had gotten out of his truck to go back and help his co-worker who was stuck on the curve. James Miller suffered a severe head injury that was immediately fatal. Hale then swerved onto a driveway that ran up the side of the mountain behind Miller's truck and came to a stop.

Hale's truck was impounded and inspected by the West Virginia Public Service Commission which found that the truck's brakes and horn were in out-of-service condition. The truck's load also caused the truck to exceed the West Virginia 65,000 pound gross weight limit.

Plaintiff Mary Miller, widow of the decedent, sued Flora Contracting and its owner, Donald Shelton, for negligent maintenance of the truck, Pounding Mill Quarry for overloading the truck and negligently hiring Flora Contracting which was not authorized to haul cargo in interstate commerce, and GeoMet Operating Company for negligently hiring Flora Contracting and allowing Flora to haul loads in excess of the West Virginia weight limit. Defendants GeoMet and Pounding Mill brought third-party actions against Cleco Contracting, James Miller's employer, and Hannah Trucking which was hired by GeoMet to haul stone to its well sites.

At mediation, plaintiff reached settlements with Flora Contracting for \$1 million, GeoMet Operating Company for \$125,000.00 and Cleco Corporation for \$25,000.00. Cleco had been added as a third-party defendant but no claim was made by plaintiff against Cleco, James Miller's employer. Flora's release also provided for the release of Donald Shelton, Stanley Hale's estate (Hale died in November 2004 of causes unrelated to this incident), and Hannah Trucking. These settlements left Pounding Mill as the only remaining defendant. Several months after the mediation plaintiff settled with Pounding Mill for \$850,000.00.

Type of action: Wrongful death

Injuries alleged: Severe head injury to 60-year-old truck driver

Name of case: Miller, Administratrix of the Estate of James Dallas Miller, Deceased vs. Pounding Mill Quarry Corporation, Flora Contracting, Inc., Donald L. Shelton, Stanley M. Hale and GeoMet Operating Company v. Cleco Corporation and Hannah Trucking

Court/Case No.: Circuit Court for McDowell County, W.Va.; Case No.: 03-C-301-M

Special damages: \$215,618.00 lost wages; \$148,636.00 lost household services; and funeral and burial expenses of \$13,984.00

Awarded or Settled: Settled

Amount: \$2,000,000.00

Plaintiff's Attorneys: Kevin W. Ryan and Paul R. Thomson III, Charlottesville, and Robert J. Breimann, Grundy.

Plaintiff's Experts: Don Asa, D&A Consultants, Phoenix, Ariz. (truck operation and maintenance), Rudolf Limpert, Ph.D., Park City, Utah (truck brakes), Michael L. Brookshire and George A. Barrett, Brookshire & Associates, Charleston, W.Va. (economists).

Defendant's Experts: Joe Atherton, Accident Technology & Engineering, Inc., Midlothian (scene survey, truck brakes); Jeffrey Krummen, MV Engineering Company, Cincinnati (truck operation, inspection and maintenance); Gary Huey, Joe Boggs & Associates, Inc., Charleston, W.Va. (federal and state regulations regarding trucking).

Mediator: John H. Shott, Bluefield, W.Va.

Insurance Carriers: Geomet Operating Company - Liberty Mutual Insurance Company; Flora Contracting, Donald Shelton and Stanley Hale - Sagamore Insurance Company; Pounding Mill Quarry Corporation - Bituminous Insurance Companies; Cleco Corporation - CNA Continental Casualty Company

[05-T-105]

© Copyright 2009, by Virginia Lawyers Media, all rights reserved