



## **Roger E. Harris**

Swift, Currie, McGhee & Hiers, LLP  
1355 Peachtree Street, NE, Suite 300  
Atlanta, GA 30309  
Direct dial: 404.888.6175  
E-Mail: roger.harris@swiftcurrie.com

### **Representative Jury Trials**

#### **TRUCKING / TRANSPORTATION**

***Stephen Waldon v. McKee Foods Corporation, McKee Foods Transportation, LLC, and James William Gregory; (United States District Court for the Northern District of Georgia – Atlanta Division)*** Week-long trial in Federal Court. This was an admitted negligence trucking case by the defendants. Jury returned a plaintiff's verdict in the amount of \$425,000.00. Immediately before trial plaintiff's demanded \$500,000.00 to settle, and defendants offered \$300,000.00. Plaintiffs demanded \$1,000,000.00 a week before trial, and asked the jury to award \$2,000,000.00.

***Gilbert Martell v. ABM Aviation, Inc., (In The Superior Court of Fulton County)*** Week-long trial involving allegations of negligent driving by airport shuttle bus driver resulting in claimed injuries including torn rotator cuff. Defense verdict was returned on behalf of motor carrier that operates airport shuttle buses and its CDL driver. Plaintiff sought in excess of \$300,000.00.

***Ehsan Khan and Ghulam Khan v. Moore Freight Service, Inc., and John Teal, (In the State Court of Cobb County, Georgia)*** Week-long trial of an admitted liability negligence / trucking case where insured driver ran a red light with a tractor-trailer, t-boning sedan with driver and three passengers. Injuries to sedan driver included catastrophic traumatic brain injury, with minor injuries to individual passengers that were settled pre-suit. Plaintiff/driver demanded in excess of \$11,000,000.00 before trial. Jury returned verdict of \$20,000,000.00. Case settled for significantly reduced amount while appeal was pending.

***Cuong Nguyen v. MTI Bus Company, Inc., and Wilbertford Bernard, (In the State Court of Clayton County, Georgia)*** Week-long trial ending with a defense verdict. Plaintiff claimed injuries resulting from side-swipe impact between his sedan and a large shuttle bus loaded with passengers. Plaintiff sought recovery of medical expenses in excess of \$600,000.00 for multiple back / neck surgeries claimed to be related to accident, and asked jury to return a verdict of \$14,000,000.00. Defended case on liability and an absence of medical causation.

***Johnny L. Williams, by and through his Conservator, Alfonza Lewis v. Rubin Harvey, Jr. and Oxford Construction Company, (In The Superior Court of Mitchell County, Georgia)*** Two week trial in South Georgia (Camilla). This was an admitted negligence trucking case by the defendants, involving traumatic brain injury and catastrophic damages to the plaintiff who survived a rear-end collision by a 60,000 pound loaded truck, while plaintiff was driving a farm tractor. Jury returned a plaintiff's verdict in the amount of \$18,000,000.00. Case is working its way through the Georgia appellate courts and is currently with the Georgia Supreme Court.

***Patricia Watkins and Ronald Watkins, Jr. v. Star Transport, Inc., and Andre Perdue, (In the State Court of Bibb County, Georgia)*** Week-long trial in Central Georgia (Macon). Plaintiff's verdict in the amount of \$282,000.00. High - Low agreement reached during trial in the low amount of \$200,000.00 and in the high amount of \$600,000.00. Pre-trial demand of \$1,000,000.00. Facts involved hit-and-run by insured driver on Interstate-75 Southbound, alleging side-swipe by tractor-trailer forcing plaintiffs' vehicle off the road.



**Donnie Jean Woods, Individually as wife of Jimmy Ray Woods and as Executrix of the Estate of Jimmy Ray Woods v. Allied Van Lines, Berger Transfer and Storage, Inc., Berger Atlanta, Inc., Nekeia Ramey, and ACE American Insurance Company; (State Court of Gwinnett County);** Week-long trial ending with a defense verdict. Represented Allied Van Lines, Inc., in multi-vehicle / multi-collision fatality accident against claims of negligence on the part of truck driver operating under Allied Van Lines, Inc.'s DOT operating authority. Plaintiff asked for \$30,000,000.00 at the close of the trial. Jury deliberated for 2.5 hours before returning a defense verdict based on the physical evidence and science applicable to speed and impact.

## **MEDICAL / SURGICAL**

**Herbert Moore, individually and as the husband and Administrator of the Estate of Rosemary Moore, deceased v. Dr. Sonu G. Singh, M.D., Peachtree State Nephrology Inc. (State Court of Henry County);** Four day trial ending with a directed verdict for the defense on the issue of causation. Represented a nephrologist who admitted a patient in acute renal failure. Plaintiff alleged nephrologist failed to diagnose a non-displaced fractured tibia that progressed to a displaced fracture, requiring extensive surgery to repair.

**Jontavious Jacquez Burdett, a minor, by and through his Parents and Next Friends Crystal N. Perdue-Burdett and Willie Burdett v. Alvin Lamar Sermons, M.D. Fictitious Defendants Numbers One Through Five (State Court of Fulton County);** Week-long trial ending with a defense verdict. Represented an OB/Gyn who delivered a baby by Cesarean Section. Plaintiff alleged that defendant physician negligently performed the C-section resulting in hypoxic ischemic encephalopathy (HIE) causing cerebral palsy and other neurologic deficits. Plaintiff sought in excess of \$1,000,000.00.

**Fred Cantrell, As Surviving Spouse of Sandi L. Cantrell and Tracee English as Administratrix of The Estate of Sandi L. Cantrell v. Dekalb Medical Center, Inc., Michael A. Friedman, M.D., Southeastern Lung Care, P.C., Jeffrey Michaelson, M.D., Rana Rab, M.D., Radiology Associates of Dekalb, P.C., Gordon L. Hixson, M.D., and Henry J. Krebs, M.D., (State Court of DeKalb County);** Ten-day trial ending with a defense verdict. Represented a rheumatologist who provided care and treatment to hospitalized patient. Plaintiff alleged that Dr. Friedman failed to appreciate signs and symptoms of deep venous thrombosis (DVT), resulting in patient's death.

**E. Ronald Finger and Cheryl Finger v. St. Joseph's/Candler Health System, Inc. d/b/a St. Joseph Hospital, Inc., James G. Lindley, Jr., M.D. and Neurological Institute Of Savannah, P.C.; (State Court of Chatham County);** Two week trial ending with a defense verdict. Plastic surgeon sued his neurosurgeon and hospital for visual loss following 6.5 hour spine surgery. Represented neurosurgeon who performed surgery and managed patient post-operatively. Plaintiff alleged that Dr. Lindley failed to adequately treat anemia and hypotension causing decreased blood flow to optic nerve resulting in development of ischemic optic neuropathy. Plaintiff sought in excess of \$8,000,000.00.

**Anthony Reid Gantt and Linda Gantt v. Carol A. Klingenberg, M.D., and Peachtree Emergency Associates, PC; (State Court of Fulton County);** Week-long trial ending with a defense verdict. Represented emergency physician who treated patient for complaint of chest pain and determined it was gastric upset. Patient was discharged home. Plaintiff returned to ER 10 days later with a heart attack and alleged that Dr. Klingenberg failed to diagnose his cardiac arrest during first visit, resulting in loss of cardiac function.

**John E. Goins v. Srinivasa K. Gorjala, M.D. and Surgery South, PC.; (State Court of Clayton County);** Week-long trial ending with a defense verdict. Represented a general surgeon who performed gallbladder surgery, and during procedure recognized injury to hepatic ducts and transferred patient for primary repair. Patient alleged Dr. Gorjala was negligent in his surgical technique resulting in additional surgeries and lengthy hospitalization.

**Christopher D. Lund v. Albert F. Johary, M.D., P.C., and Mary Pat Gardner; (State Court of DeKalb County);** Three day trial ending with a directed verdict in favor of the defense. Successfully represented a medical practice and its office manager in case alleging improper disclosure of HIV/AIDS information.

**Gary Dean Mueller and Cathy Mueller, v. Jon L. Hyman, M.D.; David A. Schiff, M.D.; Peachtree Orthopaedic Clinic, P.A.; Joseph D. Weissman, M.D.; and Atlanta Neurological Associates, P.C.; (State Court of DeKalb County);** Ten day trial ending with a defense verdict. Represented neurologist who examined patient for neurological complaints and referred patient to orthopedic surgeon for further evaluation. Plaintiff alleged that Dr. Weisman failed to timely complete proper diagnostic work-up for cervical spine stenosis resulting in paralysis.

**Lisa G. Myers and Charles S. Myers, Jr. v. Ward V. Houck, M.D., Thoracic Surgery Associates, P.C., Stuart J. Simon, M.D., Srirami Paramesh, M.D., Georgia Lung Associates, P.C., Barbara E. Simler, R.N., Comfort A. Gbadebo, R.N., Wellstar Health System, Inc.; (State Court of Fulton County);** Two week trial ending with a defense verdict. Represented two pulmonary/critical care specialists who managed critically ill patient in the ICU who developed severe infection following orthopedic surgery. Plaintiff alleged that Drs. Paramesh and Stuart failed to properly address fluid management in patient following chest tube placement in the lung parenchyma, leading to excessive bleeding and stroke, causing paralysis. Plaintiff sought \$14,500,000 in damages.

**Kathryn Yarbrough and James Yarbrough v. Tamim Al-Kharrat, M.D., and Tamim Kharrat, M.D., P.C. (State Court of DeKalb County);** Following three days of trial a settlement was reached bringing the matter to a close. Represented a pulmonologist who provided care and treatment to ICU patient. Plaintiff alleged that Dr. Al-Kharrat failed to obtain proper history and physical exam information indicating cervical stenosis, and that failure to appreciate signs and symptoms of cervical spine fracture led to paralysis.

**Whitney Beaubian, An Incapacitated Adult, By and Through His Legal Guardian Traci R. Beaubian, v. Paul King, M.D., Metro Atlanta Neurosurgery, P.C., Lee Patterson, M.D., Kerrie Bossard, M.D., and Tenet Healthsystem GB, Inc., d/b/a, Atlanta Medical Center; (State Court of DeKalb County);** Following a 3 week trial the jury was hung 11-1 in favor of defendant neurosurgeon. Represented neurosurgeon who cared for traumatic brain injury patient transferred to Atlanta following vehicle accident in the Dominican Republic. Plaintiff alleged that following transfer Dr. King failed to place a ventriculostomy in patient's brain, resulting in massive swelling and brain injury, causing profound neurologic deficits. Plaintiff sought \$20,000,000.00 in damages.

**Alithia M. Bernatitus and T. Patrick Bernatitus v. Gordon Werbel, M.D. and General Surgeons of Gwinnett, Inc.; (State Court of Fulton County);** Week-long trial ending with a defense verdict. Represented general surgeon in gall bladder removal case. Plaintiff alleged that Dr. Werbel negligently performed surgery resulting in transected common bile duct requiring surgical repair and lengthy hospitalizations.

**Vita Davis and Kenneth Davis v. Advanced Laparoscopic Associates, P.C., Alfred Bernard Johnson, M.D., Gopala Derebail, M.D., Emerginet, L.L.C., Emerginet-Henry, LLC, and Emory Healthcare d/b/a Crawford Long Hospital; (State Court of DeKalb County);** Following 10 days of trial the jury hung 7-5 in favor of defendant general surgeon. Represented general surgeon who performed gall bladder removal surgery. Plaintiff alleged that Dr. Johnson failed to timely diagnose and treat a post-operative bile leak, causing decompensating congestive heart failure, leading to heart transplant.

**Patricia Creech and William Creech v. Surgery South, P.C. and Srinivasa Gorjala, M.D., (In the State Court of Clayton County)** Week-long trial with a Defense Verdict in case alleging failure to remove colon cancer. Following appeal, the Georgia Court of Appeals affirmed the jury's verdict in favor of the defense. Petition for Certiorari in the Georgia Supreme Court was denied.



***Daphne Hardin v. Keith Dockery, M.D. and Buckhead ENT, LLC; (State Court of Fulton County);*** Week-long trial ending with a defense verdict. Represented ENT surgeon who performed surgery to remove malignant neck mass. Plaintiff alleged that Dr. Dockery failed to remove a rubber-band drain during post-operative visit, resulting in delayed healing and disfigurement.

***Laura Ruth Webb and Zack Webb v. Hugo D. Ribot, Jr., M.D., and Cartersville OB/GYN Associates, P.C.; (Superior Court of Bartow County);*** Week-long trial ending with a defense verdict. Represented gynecologic surgeon who performed functional labiaplasty surgery. Plaintiff alleged that Dr. Ribot negligently performed procedure by removing too much tissue, resulting in pain and discomfort, and requiring extensive revision surgery.

***Andrewline Wilkins v. Dr. Kevin D. Toon, Georgia Emergency Medicine Specialists, P.C., Athens Model Neighborhood Health Center, Inc., Dr. Gail Hurley; (Superior Court of Athens-Clarke County);*** Week-long trial ending with a defense verdict. Represented emergency medicine physician who worked up patient for complaint of arm pain and discharged her home with instructions to see primary care physician or return to ER if gets worse. Plaintiff alleged that Dr. Toon failed to timely diagnose upper extremity blood clot resulting in amputation of left arm.

***Ikhlas A. Muhei, individually as Executrix of the Estate of Basil K. Arif, Deceased v. Primary Care Partners, P.C., Bram D. Wieskopf, M.D., David Clark Ballard, III, M.D., and Northwest Georgia Gastroenterology Associates, P.C.; (State Court of Cobb County);*** Week-long trial ending with a defense verdict. Represented medical practice for vicarious liability claims arising out of allegations that former employed physician failed to timely diagnose and treat prostate cancer, resulting in patient's death.

***Randy Blevins and Kathy Jean Blevins v. Ekundayo Falase, MD and Eastside Premier Nephrology and Hypertension, P.C.; (State Court of Rockdale County);*** Three-day trial ending with a defense verdict. Represented Nephrologist in case alleging failure to properly place vascular catheter for urgent hemodialysis. Catheter was inadvertently placed in the arterial system rather than the venous system, resulting in subsequent open chest surgery to remove catheter.