

# DAILY REPORT

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## Attorney: Settling cases deserves respect

SETTLEMENTS UNCLOG courts, help plaintiffs move on, says Brodhead, citing \$2M accord

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PLAINTIFFS' ATTORNEY, Ben Brodhead, said his client's recent \$2 million settlement of claims from a fatal car crash case is an example of how lawyers can unclog the courts.

The deal was hatched for the full amount of the defendant's insurance policy.

"Big verdicts get celebrated in the paper and by plaintiffs' attorneys and defense attorneys," said Ben Brodhead III of Brodhead Law, but he said settlements deserve more respect. "It's a failure of communication between the parties if you end up going to trial."

Attorneys often have enough information to resolve a matter before a trial, or in the case he just finished, before filing a suit, he said.

"Plaintiffs and plaintiffs' attorneys have

gotten a bad rap for clogging the courts. The reality is plaintiffs don't want to go to court. Plaintiffs want to resolve their case and move on with their lives," he said, noting also that defense attorneys are paid while they litigate, while plaintiffs' attorneys are not paid until the case concludes.

"This is an example of both sides working together for the benefit of all clients involved," said Brodhead. The settlement "saved everybody money."

Brodhead's demand letter valued his case at \$5 million if it had gone to trial, based on the evidence and other cases handled by his firm. He represented the family of L.J. Jackson, 52, of Social Circle, who was killed when his car was hit from behind by a box truck driven by Amando Campozano and owned by Seasonal Color Greenhouses Inc.

Brodhead praised defense counsel W. Bruce Barrickman of Barrickman Allred & Young for protecting Campozano and



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**Ben Brodhead** valued his case at \$5 million at trial, but a \$2 million settlement "saved everybody money."

saving the insurer—Hortica Insurance Co.—

the risk of a bad faith judgment that could have resulted from a decision not to meet the policy limits demand. "I fully believe Bruce did an excellent job of protecting his client," Brodhead said.

Barrickman responded, "We obviously saved money in defense costs and discovery costs. We avoided the risk of a potential excess verdict."

"I don't know that I agree that the value was up to \$5 million," Barrickman added. "But it could have been more than \$2 million, and that's all that matters."

Barrickman said his responsibility was to his client, the driver, more than the insurance company. "I explained to both of them why there was a risk of a potential verdict more than \$2 million, and they were fine with it," he said.

Also helping facilitate the early settlement was the history of the two attorneys, who had handled cases against each other before. "Ben and I are in the mutual respect society," said Barrickman. "He's a good attorney and does a good job. That factored into the value of the case."

Brodhead's demand letter based his valuation of the case on economic losses, pain and suffering and the full value of Jackson's life. He died of crush injuries to his head soon after the crash on April 26, 2011.

The crash happened on the four-lane limited access Highway 10 loop around Athens. At first, the police thought Jackson must have been pulling into the road from the shoulder when he was hit from behind. But after Brodhead's firm interviewed witnesses on the scene and those who had called 911, he said he learned that Jackson

and another driver had slowed for a group of deer that were in the highway. When Jackson's car was hit, the deer had passed and Jackson had begun to accelerate.

Another point of disagreement between the two lawyers was the speed of the box truck. Brodhead's demand letter said a witness saw the box truck speeding as it approached the point of the crash. But Barrickman said he had 10 witnesses who would testify that the box truck was moving with the flow of traffic. Barrickman said his client pleaded guilty to following too closely, and said he had been driving closely behind a van that kept him from seeing the slowed car until the van changed lanes.

For both sides, gathering information and evidence is key to a successful early settlement, Brodhead said. "You have to do the work you would do for a trial," he said. By the time he sent his 11-page demand letter to Hortica Insurance on July 3 of this year, he had already done a full investigation, including interviews with witnesses at the scene of the crash as well as engaging the services of accident reconstructionist Sean Alexander to prove fault and economist Francis Rushing to establish damages. The demand package included a three-inch binder notebook with the evidence.

Brodhead said he had already done nearly everything he would do in preparation for a jury trial except mock trials and focus groups.

Rushing estimated the economic value lost by the death of Jackson, an electrical maintenance technician, at \$864,590. "While the economic loss is large, the more substantial portion of this case revolves around the non-economic losses, including pain and suffering and the full value of Mr.

Jackson's life outside his earnings," the demand letter stated. The demand noted Georgia law recognizes pre-impact pain and suffering. And it said Jackson remained alive for several minutes, based on the testimony of a witness, a nurse who stayed with him and felt his pulse until it stopped.

The letter also described Jackson as a caregiver to his mother, active in his church, a loving family man who had "lived his life in an honorable way." ■