

JOHNSON & WARD

TORTS: NEGLIGENCE: TRACTOR TRAILER/PICKUP TRUCK: WRONGFUL
DEATH: VERDICT

RE: Mrs. Reba L. Hall, Widow of Winchester Hall, and Mrs. Reba L. Hall, Executrix of the Estate of Winchester Hall vs. Cardinal Transport, Inc., a Delaware Corporation, et. al.
U.S. District Court Civil Action File No. 1-96-CV-1602CAM

Verdict: \$1,012,700.00, November 5, 1996.

Offer/Demand: Plaintiff's final demand prior to trial was \$1,000,000.00. Defendants' final offer was \$750,000.00. The parties had earlier entered into a "high/low" agreement, of \$400,000.00/\$1,100,000.00.

Attorneys: William C. Lanham and Clark H. McGehee, JOHNSON & WARD, Atlanta, Georgia, for plaintiff. R. Clay Porter and Raymond J. Kurey, DENNIS, CORRY, PORTER & GRAY, Atlanta, Georgia, for defendants.

Insurance Carrier: First American Insurance Company.

On December 18, 1995, Winchester Hall, 61-years of age, was driving his pickup truck in a westerly direction on Georgia Highway 81 East in Henry County, Georgia. Ronald E. Avinger was driving a tractor trailer truck on behalf of his employer, Cardinal Transport, Inc., proceeding in an easterly direction on Georgia Highway 81 East, approaching Hall's pickup truck from the opposite direction.

As Avinger came over a small rise, he encountered an automobile to his front which was slowing to make a right turn into a driveway. He misjudged its speed, and when he realized he was about to rear-end it, he activated his brakes and pulled partly off the side of the roadway, several feet onto the shoulder. However, due to the roadway and braking conditions, and the manner in which he attempted to turn back onto the roadway, he lost control and jackknifed across the roadway directly into the path of Hall's approaching pickup truck,

resulting in a head-on collision, killing Hall instantly. Neither the eyewitnesses nor the investigating authorities indicated the tractor trailer was travelling at an excessive rate of speed, but the evidence was clear that it had lost control and crossed directly into the path of Hall's pickup truck.

After completing discovery, the parties agreed to mediation, and though a settlement could not be concluded, did reach a "high/low" agreement wherein plaintiff agreed to waive claims for attorneys' fees and punitive damages and not oppose removal of the action to federal court, with defendants in return agreeing to stipulate to liability and to pay \$400,000.00 immediately, with the case proceeding to trial under a damage cap of \$1,100,000.00.

At the time of his death, Hall was working as a baker at the local Nabisco Brands plant in south Atlanta, earning approximately \$35,000.00-\$40,000.00 per year. He could have continued working at least through age 65, and possibly longer, as plaintiff argued he was in relatively good health. He was survived by his wife and two grown children.

The case was tried in U.S. District Court in Atlanta, Georgia, and the jury returned its verdict after approximately three hours of deliberation.