

# DAILY REPORT

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## \$4M Premises Liability Verdict Allots 1 Percent Blame to Defendants

After three days of deliberations, the DeKalb County jury apportioned only 1 percent of the liability to the complex's owners, dividing the rest among the shooter and other involved brawlers, meaning the slain man's parents will see none of the money.

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A DEKALB COUNTY JURY awarded \$4 million to the parents of a young man killed by a stray bullet but only apportioned 1 percent of the liability to a Gwinnett housing development at trial, meaning the parents will see none of the money.

After three days of deliberations, the jury apportioned only 1 percent of the liability to the complex's owners, dividing the rest among the shooter and other involved brawlers. The lawyers for the defendant property owners, **Weinberg, Wheeler, Hudgins, Gunn & Dial** partners Mark Johnson and Jackson "Jad" Dial, who worked with partner Gary Toman, said the plaintiffs insisted on the collective \$11 million insurance policy limits prior to trial and rejected a \$3 million offer during trial.

Lead plaintiffs' attorney Matthew Stoddard said via email that the case, involving the slaying of an innocent man in an area with a history of violent crime, posed a high hurdle for the defense.



Mark Johnson (left) and Jackson Dial of Weinberg, Wheeler, Hudgins, Gunn & Dial, Atlanta

"Mark Johnson and Jad Dial had some very difficult facts," said Stoddard, who tried the case with **Stoddard Firm** colleague Keith Evra and **Bondurant, Mixson & Elmore** partner Naveen Ramachandrapa.

"Whatever those insurance companies are paying them, it's not enough," said Stoddard. He did not say whether an appeal is anticipated.

According to court filings and the defense lawyers, the shooting occurred

near the Bradford Gwinnett townhome and apartment complex in Norcross in 2014.

A group of five men in a pickup truck parked on Beaver Springs Lane began arguing with a passerby, Dave Champe, who was getting into a car driven by his girlfriend.

The **complaint** said the men made lewd comments about the woman, Janiece Washington. One of the men attacked Champe, then they all began

beating Champe and Washington, who were able to break free and run away.

The men piled back into the pickup, and one or more began shooting toward Champe and Washington as they drove away.

Pierre, who lived at the townhomes with his mother, was outside when he was struck in the back by a stray bullet.

“We don’t know where he was shot; it was somewhere near the road,” said Johnson. “He was located almost an hour after the shooting. ... He walked perhaps as much as 50 to 75 yards, and probably lived between 30 seconds and five minutes.”

The alleged shooter, Sherwin Johnson, is awaiting trial for murder, the lawyers said. Another member of the group, Quinton Hall, pleaded guilty to aggravated assault.

One month after the shooting, Pierre’s parents, Virginia Alexis and Pierre Pierre, and an estate administrator sued a half-dozen interrelated companies that owned and managed the complex, collectively referred to throughout the litigation as the Bradford Gwinnett defendants.

They also sued Signal 88 Security of Atlanta, the security contractor for the complex.

There was never any mediation, the defense lawyers said.

“We reached out the month before trial to see if they wanted to mediate. Not interested,” said Dial. “We reached out the week before to see whether they’d negotiate for less than the policy limits. No.”

Signal 88 settled out of the case for \$1,170,000 shortly before trial, Dial said.

Trial began Jan. 16 before DeKalb County State Court Judge Mike Jacobs.

Key to the plaintiffs’ case were claims the defendants failed

to provide adequate, armed security guards for the complex.

The plaintiffs’ portion of the **pre-trial order** points to a market report the defendants commissioned in 2010 before buying the properties that detailed “alarming warnings about criminal activity at Bradford Gwinnett including high levels of violent crime, lax management practices, and instability,” and recommending an array of security enhancements.

Bradford Gwinnett “consciously chose to ignore nearly all the report’s recommendations,” it said, and vio-

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lent crime “escalated in alarming ways including multiple major gang raids, sexual assaults, shootings, stabbings, etc.”

The defense countered that both Washington and Champe knew the victim and bore some of the blame for the fight. Champe was Pierre’s best friend, according to the defense.

The defense made the decision not to claim there was no crime in the area and instead fought the facts of Pierre’s shooting, which they said occurred on a public road not under the defendants’ control.

“At the end of my opening statement, I said ‘I’m not going to ask you if you

thought this was a perfect property; I’m going to ask you for a verdict on this shooting,’” Johnson said.

In closing, he said Stoddard asked for \$30 million for the value of Pierre’s life and unspecified pain and suffering damages.

The jury began deliberations on Jan. 26. The panel said they were deadlocked after 1.5 days of deliberations, which prompted Jacobs to issue an *Allen*, or dynamite, charge instructing them to keep working, and to try and resolve their differences, Dial said.

“We discussed a hi-lo after the jury question on Tuesday,” said Johnson. “They were willing to negotiate, but we never could work anything out.”

On Jan. 31, the jury awarded \$3.3 million for Pierre’s life and \$700,000 for pain and suffering. The second page of the verdict allocated 1 percent of the fault to defendants, zero percent to Signal 88, 75 percent to Johnson, 10 percent each to Washington and Hall, and 4 percent to Champe.

Stoddard said he was told after trial that the jury was deadlocked at one point “with nine jurors wanting a significant plaintiffs’ verdict and three jurors wanting a defense verdict.”

Dial said he spoke to one juror.

“They were held up on liability,” he said. “Interestingly, as much as we focused on the public road issue, this juror said that the subject of their deliberations was more on proximate cause and foreseeability.” ☞

*Greg Land covers topics including verdicts and settlements and insurance-related litigation for the Daily Report in Atlanta.*

