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Waldon Adelman Cooks on Hot Summer Trial Calendar

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L-R Jonathan Adelman and Russell Waldon
John Disney/Daily Report

It's been a busy summer for defense litigation shop Waldon Adelman Castilla Hiestand & Prout. Over a period of three weeks, the 32-member firm tried nine jury cases to victory or minimal plaintiffs' awards, continuing a courtroom-heavy schedule that has seen its members handle 23 jury trials this year.

Partner Russell Waldon said that doesn't include magistrate court cases, dismissals and settlements. He says he's been told by judges and plaintiff's lawyers that his firm tries more cases than any other in the state, regardless of size. "We try cases all over the state," he said.

"You hear a lot about 'firm culture,'" he continued. "If we have a firm culture, we like to think of ourselves as a trial law firm. I think it's as distinct a specialty as a patent lawyer. Trial lawyers are a different breed of cat; we have different motivations. When we hire folks, our goal is hire someone who went to law school because they grew up watching trial shows on TV and reading trial books."

"It's not that we're a 'take no prisoners' firm," Waldon added. "We represent 20 or 25 insurance companies, some of whom have more appetite for trial than others."

\$30K for Herniated Disk

The most recent case ended Wednesday with a Gwinnett County jury awarding \$30,000 to a woman injured in a car wreck. The defendant, Sonya Tross, admitted that she had failed to yield the right of way when she turned in front of an approaching car driven by plaintiff Natasha McCoy.

McCoy suffered a herniated disk, said Waldon Adelman partner John Adelman, who tried the case for the defense, and her chiropractor and two treating physicians testified that her injuries were related to the crash. McCoy's doctors also testified that she would need spinal injections for the rest of her life, Adelman said, and her past and future medical expenses were estimated to be \$123,000.

Prior to trial, the plaintiff demanded \$125,000 to settle, said Adelman, which he countered with an offer of \$25,000. During closing argument, he said, McCoy's lawyers, J. Blair Craig and Brian Craig of Wood & Craig, asked the jury to award at least \$200,000.

After a 2½-day trial before Gwinnett County State Court Judge Joseph Iannazzone, the jury awarded McCoy \$30,000.

Adelman lauded his opposition's handling of the case.

"Blair and Brian Craig turned what I thought was going to be a defense verdict into a case where they got \$30,000 for their client," he said. "They split the closing arguments, and I have to say it was the best closing argument I've ever seen."

"David exaggerates, but very nice of him to say," said Blair Craig, who otherwise declined to comment.

Defense Verdict for Slip-and-Fall

Earlier this month, Waldon and firm partner John Alday tried a slip-and-fall case to a defense verdict in Cobb County State Court. The plaintiff slipped in a puddle of melting ice at a Food Depot store in Austell.

"This was a significant case with significant injuries," Waldon said. The plaintiff, 60-year-old Mary Smith, underwent two hip surgeries after her fall, including a complete hip replacement. She had medical bills of \$250,000, he said, and lost wage claims of almost \$40,000.

"She was an incredibly nice woman, very empathetic," he said.

Prior to trial, Smith's attorneys, Gillis & Creasy partner James Creasy and Woodstock solo Thomas Holbird Jr., offered to settle the case for \$850,000, Adelman said; the highest defense offer was \$250,000.

The challenge in premises liability cases, Waldon said, is in getting the jury to see the defendant as something other than a faceless corporation.

"The lawyer's duty is to make the jury understand that a corporation is nothing more than a group of individuals trying to provide a service, to treat everyone as an individual and to believe that justice has to be equal."

According to Waldon and the pretrial order, a key issue in the case was whether the ice had been spilled from a plastic bin by a store employee.

"We never believed that the ice on the floor got there as a result of negligence on the part of Food Depot," Waldon said. "It was a significant distance from the ice bin, and there was evidence that children in the area had their hands in the bin, and may have been throwing it."

The defense also presented evidence that Smith's hip problems may have been caused by a degenerative disease, he said.

During closing arguments, Smith's lawyers asked for about \$3.5 million, he said.

After a four-day trial before Cobb County State Court Judge Irma Glover, the jury took about three hours to return a defense verdict on Aug. 6.

Creasy, the plaintiff's lawyer, declined to comment on the case other than to confirm the plaintiff will appeal.

\$5K Award From 'Cynical' Jury

In the last week of July, Adelman represented a woman who admitted to having caused a wreck in Acworth when her car rear-ended another woman's vehicle, knocking it into a third car. According to the plaintiff's portion of the pretrial order, the defendant driver, Cynda Anderson, was wearing "wedge booties" and her foot slipped off the brake pedal as it had on one or two prior occasions.

The plaintiff driver of the first car struck, Kathleen Kemmer, was taken from the scene in an ambulance and followed up with a physical therapist and orthopedist, Adelman said. She had multiple spinal injections and claimed to have permanent lower-back injuries and shooting leg pain.

Prior to trial, the defense offered to settle for \$19,000, according to Adelman. That offer was declined, he said, and the plaintiff refused to make a demand within the liability insurance limits.

During a two-day trial before Paulding County Superior Court Judge Tonny Beavers, Adelman said evidence showed that Kemmer, a woman in her mid-50s, had significant pre-existing degenerative conditions, including herniated disks.

"Ms. Kemmer was a good witness, but had a history of upper back pain up until the day of the accident," Adelman said. "She had been to see a physical therapist the day before. At trial, they tried to distinguish her upper back pain from her lower back pain. I think the jury determined that back pain is back pain."

Kemmer's attorney, Schulten, Ward & Turner partner David Turner, presented medical bills of about \$26,000, and asked the jury to award \$376,000 in damages, Adelman said.

On July 31, after deliberating for an hour and 45 minutes, the jury awarded Kemmer \$5,000.

The judgment has been paid and no appeal is expected, Adelman said.

In a one-sentence email message, Turner offered a scathing critique of the panel.

"The jury was a cynical, unsophisticated bunch, seemingly incapable of empathy, eager to embrace defense bromides however haphazardly delivered," Turner said.

Other Waldon Adelman verdicts

Other Waldon Adelman cases in recent months include:

- A July case in which firm associate Alex Salzillo, in his first jury trial as lead attorney, represented a driver who admitted to having rear-ended two off-duty Gwinnett County deputies.

Both officers complained of soft tissue injuries at the scene and went to the emergency room on the date of the accident, Adelman said. One was diagnosed with a concussion and soft tissue injuries and presented medical expenses of \$9,000, he said. The other plaintiff was diagnosed with a possible rotator cuff tear and other soft tissue injuries and claimed medical expenses of \$6,000.

In closing, the plaintiffs' attorneys asked the jury to award about \$60,000 to one officer and \$43,000 to the other. The jury awarded one officer \$1,000, and nothing to the other.

"This is a case I'm particularly proud of," Adelman said. "Nothing gives me more pleasure than a new associate going to trial and winning."

- A July case in Cobb County State Court in which partner John Alday and associate Anna Ismail defended a case over a head-on collision motor vehicle accident that totaled the plaintiff's Volvo SUV. Adelman said the case was one of "clear fault" and resulted in the plaintiff suffering a fractured vertebrae "which she described as making her 'feel like a Bobblehead,'" and required her to wear a neck brace for six months.

At trial, the plaintiff produced \$35,000 in medical expenses and asked for \$1.1 million. Adelman said that, prior to trial, she had already received the \$25,000 policy limits from the defendant's Progressive liability policy and \$25,000 in medical payments from the plaintiff's insurer, State Farm.. The jury took 34 minutes to return a verdict of \$58,309 but, because of a prior agreement to reduce it by that \$50,000, the actual award was \$8,309.

- A June Cherokee County trial in which Adelman won a defense verdict against a pedestrian who had been struck by a car in a parking lot. The plaintiff was diagnosed with a torn knee cartilage and underwent arthroscopic surgery, and presented medical bills totaling \$30,000, he said.

Prior to trial, the defense offered to settle for \$20,000; the plaintiff demanded \$100,000, Adelman said.

The jury returned with a verdict of \$27,000 but, because there had been a pre-trial settlement with the at-fault driver's liability carrier to cover her medical bills, the award was offset to zero, Adelman said.

- Another June case that partner Hiestand tried on behalf of the defense to a \$37,000 plaintiff's verdict in Muscogee County.

Also a clear liability, head-on collision case, the plaintiff suffered a fractured arm requiring surgery and accrued medical bills of \$37,000. The pretrial plaintiff's demand was "not a dime less than \$300,000," Adelman said. The insurance company offered \$100,000, which was declined.

"The judge denied our motion for summary judgment on what we felt was a weak punitives claim," Adelman said. "The jury returned with a verdict in the amount of the medical expenses only."

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