

# DAILY REPORT

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## Injured business owner gets \$3.3M settlement

**GOLF COURSE LANDSCAPER WAS LEFT** permanently injured in car accident on the way to work

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A FORSYTH COUNTY personal injury case involving a golf-course renovation landscaper who was hurt in a vehicle wreck has settled for \$3.3 million.

The plaintiff's lawyer, Thomas C. Rowsey of Roswell, said he filed suit two years ago this month in Forsyth County Superior Court on behalf of client David Guettler and his wife. He said Guettler was driving to work one morning in a large pickup truck when another large pickup hit him head-on. The defendant's vehicle erupted in flames, Rowsey said, and his client, the plaintiff, was trapped in his truck with a fractured right femur and shattered heel and forearm bones.

"He walks with a significant limp, and will for the rest of his life," Rowsey said, adding that his client had about \$500,000 in medical expenses when the suit was filed. The liability and severity of the accident were not in question, he said. "The big ... variable was future income, because my client had some pretty impressive numbers the year before his

accident."

Guettler, the self-employed president of Gold Mine Golf Inc., had a "fantastic 2006," Rowsey said, acknowledging that his client's numbers were not as strong in 2007, because the accident occurred prior to his client's busy season. Rowsey said he was able to show future income because his client had jobs lined up, but he acknowledged that the slumping economy—which affected his client's business—also was taken into consideration.

The parties went to mediation in May 2009 and "couldn't even get close to anything," Rowsey said. They agreed to settle at a second mediation conducted at Bay Mediation & Arbitration Services with Victor Faenza in April.

He said the defendant, now-defunct Paramount Grading Inc., which was one of a group of companies partially owned by State Sen. Chip Pearson, at first offered \$1.5 million to settle the case. Paramount's attorney, Barry S. Noeltner of Atlanta, said the plaintiffs initially asked for about \$11 million.

The parties' draft of a consolidated pre-trial order says that the Paramount employee who was driving the truck, Mark T. Erickson, was following traffic laws and was not under the influence of alcohol or drugs when the accident occurred. His cell phone, which was on the passenger seat, rang, and he glanced in its direction when the right front tire of his truck slipped off the pavement and struck a culvert in the shoulder, causing him to lose control of his vehicle.

Erickson, who also was a defendant, was represented by William E. Turnipseed at Savell & Williams. He referred comment to Noeltner. The plaintiffs also were represented by Randall A. Meincke in Cumming.

"It was a pretty serious injury. We had



JOHN DISNEY

**Thomas C. Rowsey** of Roswell represented the plaintiff.

no liability defense to speak of. There were pending motions for summary judgment on punitive damages, which we thought would have been granted," Noeltner said, explaining his client's decision to settle. He also said the deposition testimony of plaintiff Guettler's wife opened up serious exposure to a lack of consortium claim.

"It's a lot of money, but it's one of the worst injury cases that I've come across in a long time. [Guettler] had a very physical job and ... he was the company," Noeltner said. He explained that Guettler ran Gold Mine Golf Inc. as a family business, so when he was no longer able to work, neither were his wife and son. Also, Guettler's wife had just had a baby.

"They had a case that was going to tug on the heartstrings if the jury had them," he said.

The case is *Guettler v. Paramount Grading*, No. 2009-cv-1173. ☎