

CASE INFORMATION SHEET
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COUNTY AND COURT:

Circuit Court, Sixth Judicial Circuit, Pasco County, Florida

NAME OF CASE:

Betty Dahlgren, as Personal Representative of the Estate of
Wendell Lee Johnson, Jr., Deceased,

Plaintiff,

v.

Walbridge Aldinger Company, a Michigan corporation, Crantson
Harris, Thomas Wright, James Gory, Interbay Electric Co., Inc.,

Defendant.

CASE DOCKET NO.: 51-2008-CA-4472-WS **JUDGE:** W. Lowell Bray, Jr.

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL:

James C. Campisi, Esquire
2739 US Hwy 19
Suite 401
Holiday, FL 34691

DEFENDANTS ATTORNEY(S)/TRIAL COUNSEL:

Gregory Giannuzzi, Esquire
Paul B. Fulmer III, Esquire
RISSMAN. BARRETT, HURT,
DONAHUE & McLAIN, P.A.
1 North Dale Mabry Hwy.
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Tampa, FL 33609
Attorneys for Walbridge
Aldinger, Inc., Cranston
Harris, Thomas Wright and
James Gory

Frank A. Miller, Esquire
CAGLIANNE, MILLER & ANTHONY,
P.A.
703 Lamar Avenue
Brooksville, FL 34601
Attorney for Interbay Electric
Co., Inc.

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

Wendell Lee Johnson, Jr. was a 28 year old, white male. He was a drywall laborer during the day and a bouncer at the Round-Up and The Grill, at night.

FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:

The personal representative was Betty Dahlgren, the mother of Wendell Lee Johnson, Jr. Ms. Dahlgren is a 47 year old, white female.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

The accident occurred at approximately 5:30 a.m. on June 3, 2006, on Sweetbriar Drive in Pasco County, Florida.

CAUSE OF INJURY:

At approximately 5:30 a.m. on June 3, 2006, Mr. Johnson was driving while under the influence of alcohol, cocaine and xanax. He drove his pick-up truck to the end of Sweetbriar Drive which was a dead end.

At the end of the road, construction equipment had been stored, as just to the side of the road a new school was being built. The equipment included two large truck trailers, a forklift (Laull), a pick-up truck and six port-a-potties.

While driving approximately 65 mph, Mr. Johnson drove his truck through three port-a-potties and into the front end of one of the storage trailers.

NATURE OF INJURY:

Plaintiff died on impact. The death of Mr. Johnson was due to blunt force trauma to the upper torso and head. The upper body was crushed such that the heart and other internal organs were crushed causing massive internal bleeding.

PLAINTIFF'S EXPERT WITNESSES:

1. Jeff Armstrong
Armstrong Forensic Engineers
104 Myrtle Ridge Road
Lutz, FL 33549

Jeff Armstrong is a professional engineer. He testified that Walbridge and Interbay needed to have barricades placed in front of the equipment that was parked at the dead end. He testified that the barricades should have had reflective properties. Mr. Armstrong testified that even though it was a dead end, Interbay and Walbridge created a hazard on the roadway.

Further, Armstrong testified that the Plaintiff did attempt to change lanes which showed that he had some ability to react. Armstrong estimated the speed of the Plaintiff's vehicle at impact to be 25 - 35 mph.

DEFENDANTS' EXPERT WITNESSES:

1. Donald J. Fournier, Jr., P.E.
Forensic Engineering Technologies, LLC
255 Primera Boulevard
Suite 128
Lake Mary, FL 32746

Don Fournier is a professional engineer. He testified that the speed of Mr. Johnson's vehicle at the time of impact was 60 mph. He testified that Mr. Johnson was traveling at approximately 65 mph at the time he first hit the brakes which was less than 8 feet from the trailer that he ultimately hit. Further, Plaintiff was traveling in the wrong lane at the time of accident.

Mr. Fournier used demonstrative diagrams to show the jury that a reasonable and prudent sober driver utilizing headlights on a high beams setting would have had plenty of time to react and bring a vehicle to a complete stop without impacting the equipment, even traveling at 60 mph. The posted speed limit on the road was 45 mph.

2. William L. Hearn, Ph.D.
Forensic Consultant, LLC
1028 Westward Drive
Miami Springs, FL 33166

Dr. Hearn is a toxicologist. He works with the Miami-Dade Medical Examiner's office. Dr. Hearn testified regarding the toxicology results of specimens taken from heart blood, chest blood, urine and vitreous fluid. The urine sample had positive findings for alprazolam (xanax), cocaine, cocaethylene and alcohol. Based on the urine sample alone, Dr. Hearn testified that the blood alcohol level would have been .126.

The vitreous fluid was positive for alcohol and cocaethylene. The analysis of the alcohol in the vitreous fluid supported a blood alcohol in the range of .092-.126 at the time of death.

Dr. Hearn was able to testify that the amount of cocaine that was found in the fluid samples supported the fact that Mr. Johnson was binging on cocaine just prior to his death. Further, he testified to the synergistic effect of alcohol, cocaine and xanax. Most importantly, alcohol increases the tranquilizer effect of xanax.

VERDICT: Defense Verdict

DATE OF VERDICT: December 15, 2011

JUDGMENT: For the Defendants.

DATE OF JUDGMENT: January 12, 2012

PLAINTIFF'S DEMAND: \$2,000,000 at mediation and prior to trial.

DEFENDANTS' OFFER: \$10,000 was offered at mediation on behalf of Walbridge Aldinger, James Gory, Thomas Wright and Cranston Harris. A \$5,000 Proposal for Settlement was filed on October 11, 2011.

ATTORNEY'S COMMENTS:

This case was bifurcated for trial, with the jury only deciding liability. Plaintiff focused on the fact that she believed the equipment placed at the dead end was a violation of FDOT and Federal Highway Regulations. The crux of her case was that the defendants should have put some form of reflective barricade up in front of the equipment alerting drivers to the hazard at the end of the road.

Defendants shifted the focus to Mr. Johnson and showed the jury that he was not a reasonable and prudent driver. Mr. Johnson was clearly impaired having consumed alcohol, cocaine and xanax. Had Mr. Johnson not been so impaired while driving he would have been able to see the equipment in the road which was clearly visible.

Defendants also asserted the defense under the Drug and Alcohol Defense Statute such that if Mr. Johnson had been found greater than 50% negligent due to his impairment, the result would be a complete defense verdict. The jury never had to answer that question as they unanimously returned a verdict stating that all Defendants were not negligent at all.

Submitted By: Paul B. Fulmer III, Esquire **Date:** February 29, 2012

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PBF/dcc