

# VIRGINIA LAWYERS WEEKLY

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## VERDICTS & SETTLEMENTS

# Trucker was high on meth when he struck and killed driver

### \$2,200,000 Settlement

The decedent was a 60-year-old wife and mother of four adult children who was killed by a tractor-trailer driver as she was leaving her job in Henrico County to begin preparations for a Thanksgiving meal for her family.

Liability against the defendant truck driver (Clarence E. Risher) and his motor carrier (CER Trucking) was clear and aggravated. At the time of the accident, Risher was high on methamphetamine and had been awake for the previous five days. Risher had no valid CDL and had a long and rich criminal history. While on a methamphetamine binge, the defendant lost control of his empty tractor-trailer (a load of frozen chickens from South Carolina had already been delivered to its final destination in Virginia) and jackknifed, crossing the center line and instantly killing the decedent. Plaintiffs brought negligence claims against CER Trucking and Risher. Risher and CER had \$1,000,000 in available coverage.

In addition to suing the driver and motor carrier, plaintiff also filed suit against the South Carolina chicken producer and shipper of the load (House of Raeford Farms) under a negligent hiring of independent contractor theory. House of Raeford's main defense was the issue of whether their negligence, if any, was the proximate cause of the accident, given that the contract for hire had been completed approximately four hours prior to the accident. House of Raeford filed



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a summary judgment motion on this issue, which was denied after oral argument. Plaintiff's counsel demonstrated in discovery that the shipper/chicken producer did no due diligence to determine the safety of its regularly-used motor carrier, except to check to determine if the carrier had insurance. The Federal Motor Carrier Safety Administration has a website available to the public that provides carrier safety data for free.

In addition, there are private services, such as Carrier411, that will provide the detailed safety history of a motor carrier for a nominal fee. Had the shipper checked either source, it would have easily learned in the month before the collision, this motor carrier was in the lowest third percentile for drug testing compliance and drug and alcohol issues. In other words, 97 percent of other motor carriers did better on this critical safety issue. Despite the fact the driver of the truck took a four-hour break to shop and do drugs after the delivery and before the fatal acci-

**Type of action:** Wrongful death – auto/tractor-trailer accident

**Name of case:** Estate of Karen Ann Whitaker v. House of Raeford Farms

**Court:** Henrico County Circuit Court

**Case no.:** CL14-1885

**Resolved by:** Mediation

**Mediator:** Thomas S. Shadrack

**Date resolved:** Oct. 1, 2015

**Special damages:** \$12,000 funeral and burial expenses

**Verdict or settlement:** Settlement

**Amount:** \$2,200,000

**Attorneys for plaintiff:** Jonathan E. Halperin and Andrew Lucchetti, Glen Allen

dent, the shipper paid an additional \$1,200,000 to settle the case, for a total settlement of \$2,200,000.

Plaintiff settled her claim against the trucking company and the driver at mediation, and settled with the shipper shortly before trial. The husband of the decedent died of unrelated causes a few months before the trial.

[15-T-158]