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Ex-Defense Lawyer Wins \$6M for Med-Mal Wrongful Death Client in Gwinnett

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Lee Gutschenritter, a partner with Finch McCranie, said the win confirmed his decision to switch to defense work.

FIVE YEARS AGO, Lee Gutschenritter decided to switch sides.

He left the insurance defense firm he'd been with for seven years, since graduating from Florida State University Law School in 2008, then called Carlock Copeland & Stair, now Copeland Stair Kingma & Lovell. He joined Finch McCranie, one of Atlanta's oldest personal injury firms.

Week before last, he tried a case that reminded him why he made the change.

After a weeklong trial, the

Gwinnett County State Court jury returned a verdict Friday for \$5.8 million in a medical malpractice lawsuit filed by the family of Barbara Shaheen.

She was two days from her 84th birthday in October 2015 when she went to Heart of Georgia Cardiology in Macon for a lower body ultrasound. She

seemed to be doing well when she arrived, having driven herself to the appointment, according to both sides' summaries in the consolidated pretrial order. She walked a mile a day, Gutschenritter said. But she'd been having some swelling in her legs. Hence the ultrasound.

When it was done, she fell while attempting to get up from the examination table. She broke her shoulder. That required surgery, which required a stay at a rehab facility. She developed pneumonia and severe breathing complications and died in January 2016.

Her surviving daughter and son sued Heart of Georgia Cardiology and the technologist, Wendy Copeland. They also sued Digirad Imaging Solutions, a company that contracted with the hospital to provide equipment and technologists for testing.

Heart of Georgia argued it had no liability because Copeland was Digirad's employee. Digirad argued that Copeland was working for Heart of Georgia. By the end of the trial, Gutschenritter agreed with Heart of Georgia on that point and released the cardiology practice from the case.


David Nelson of Chambers, Higdon, Richardson, Katz & Griggs in Macon successfully defended Heart of Georgia.

When the jury reached its verdict, Digirad was the only defendant.

The jury apportioned 85% of the fault to Digirad and 15% to Shaheen herself. Accounts differed on her role in the fall.

Gutschenritter alleged Copeland first testified that Shaheen became "woozy" when she sat up and

fell backward. Copeland caught her and told her to sit still while Copeland moved into a position

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where she could help her up. But Shaheen fell off the table while Copeland was out of position to help her.

All it would have taken to prevent the injury would have been a simple instruction for the patient to lie down while the tech moved into position to assist, Gutschenritter said.

Defense attorney Eric Frisch of Copeland Stair Kingma & Lovell—Gutschenritter's former colleague—argued that Copeland did nothing wrong.

"He was gracious," Gutschenritter said of Frisch. "He did a good job for his client. He just had some difficult facts."

Frisch did not have an immediate response to a message seeking comment.

The defense outline in the consolidated pretrial order details his arguments. The defense said Copeland told Shaheen to sit and wait for Copeland to move around the table to assist Shaheen in getting up. But Shaheen stood up anyway, then suddenly fell down. The defense said Shaheen told her doctor and her children immediately after the fall that she got up because she was "trying to be a big girl."

"Ms. Shaheen is responsible for what happened," the defense summary said.

Senior Judge Joseph Iannazzone signed the judgment Monday for \$4,958,997, reducing the verdict amount by the 15% the jury attributed to the patient.

Gutschenritter said the trial

experience was very different from his new perspective. He saw more emotion and a "lot of tears."

This was the first case referral he had after joining Finch McCranie. He tried the case with the help of partner Steve Wisebram and paralegal Corrine Anderson, also of Finch McCranie.

"On the plaintiff's side, not only are you a lawyer but you're a counselor. You're there for your clients. You're talking to them behind the scenes, trying to help them deal with the grief process. It's challenging and rewarding and difficult," Gutschenritter said.

But is he glad he switched? Oh yes.

"This," said Gutschenritter, "is why I joined the plaintiff's side."🗨️