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'Freaky Fast' Delivery Leads to \$167K Verdict Against Jimmy John's

A man walking across Peachtree Street in Midtown on his lunch hour was hit by a bike and knocked to the pavement, breaking his elbow.

By Katheryn Tucker | February 01, 2018



Jeb Butler (left) and Darren Tobin (Photo: John Disney/ALM)

The “freaky fast” slogan became a liability in a civil trial for a Midtown office worker knocked down on Peachtree Street by a Jimmy John’s bicycle delivery man.

A Fulton County jury awarded \$167,000 Tuesday to Michael Ellis, who suffered a broken elbow and had to undergo surgery and painful rehabilitation as a result of his injuries, according to court records and his attorneys, [Jeb Butler](#)

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Ellis had just walked out of the 999 Peachtree St. highrise after having lunch and was headed back to his office at Atlanta Gas Light, 10 Peachtree Place, on Jan. 25, 2016, according to Butler and court records. The bike hit him as he crossed Peachtree Street at the intersection with Peachtree Place. He was knocked onto the pavement.

“He got up and walked away holding his elbow. He had to get to a meeting with a vice president,” Butler said. “After the meeting, the vice president said, ‘Your elbow is swelling. Get to a doctor.’”

The broken elbow led to \$19,000 in medical expense claims.

But when Ellis decided to get a lawyer, he still didn’t know who hit him. “He just knew it was a guy in a green jacket, and he knew there was a problem in the area with Jimmy John’s bicycle delivery people,” Butler said. He and Tobin searched through security video from nearby businesses to find the answer. On one of the videos, they could see the delivery man ride off north about that time from the Jimmy John’s at 925 Peachtree St., just south of where Ellis was hit. The collision wasn’t clear, but “you could tell something happened.”

B. Brent Terry, in-house counsel with Cincinnati Insurance Co. in Peachtree Corners, represented Jimmy John’s of Atlanta. Terry could not be reached. But the company admitted liability for its delivery man running a red light and hitting a pedestrian, according to facts stipulated by both sides.

Butler said he asked for punitive damages, against which Terry successfully argued.

“We did a lot of legwork finding people who spent time in Midtown testifying about misconduct of bicyclists delivering Jimmy John’s sandwiches,” Butler said, adding that the company managed to persuade the jury that it was trying to improve its delivery

safety.

Butler said he did get some help from written jury questions that Fulton County State Court Judge Wesley Tailor allowed. One was for Ellis while he was on the witness stand. The question was, "Are you sure you had the walk signal?"

Butler said his client was able to answer with a definite, "Yes."

The case is *Ellis v. JJ's of Atlanta, LLC*, No. 16EV000766.

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