

# The Macomb Daily

## Appeals court upholds \$2.5 million verdict in Shelby Township fatal accident

By [Jameson Cook](#), The Macomb Daily 09/19/14

The state appeals court has upheld a \$2.5 million jury verdict for the family of an 83-year-old Shelby Township man killed in July 2009 when he was struck by a truck while riding a bicycle at 22 Mile Road and Van Dyke Avenue in the township.

The estate of Michael R. Shekoski gained the favorable ruling released Friday in its case against Allied Excavation Inc., a trucking company, and Michael G. Bindig, the driver.

"I'm especially happy for the family because they are good people and a close-knit family," said the estate's trial attorney Steve Gursten.

Gursten said the affirmation is important because the case demonstrates why transportation companies must ensure the quality of their drivers. Allied hired Bindig without checking his driving record so it didn't realize he had "multiple violations," Gursten said. In addition, Bindig's personnel record at Allied showed he was cited for speeding, improper use of equipment and insubordination, Gursten said.

Gursten said he was offended that Allied's insurance company, Secura, only offered \$250,000 to settle the case before the trial and \$500,000 during deliberations.

"I was so disgusted by that," Gursten said. "I tried it on principle."

Shekoski was survived by 11 children, 12 grandchildren, including a Shelby Township firefighter, and 16 great grandchildren at the time.

"Here you have a man who worked so hard all of his life to raise 11 children," Gursten said. "He was finally in his golden years and was enjoying his life. He was very active and independent. And he gets killed. The defendants took away the best years of his life."

Bindig, an Allied employee, was driving a company truck when it turned right from eastbound 22 Mile to southbound Van Dyke on a red light, and Shekoski was crossing on a white pedestrian signal. Shekoski became entangled under the vehicle and was dragged for several hundred feet.

Shekoski's estate, represented by one of his daughters, Theresa Modzelewski-Shekoski, sued for \$1.5 million in Macomb County Circuit Court in Mount Clemens, claiming third-party auto negligence and wrongful death.

The jury issued the verdict in December 2012 following a trial in front of James Biernat Jr., awarding \$2 million for Shekoski's "conscious pain and suffering" and \$550,000 for loss of society and companionship.

Secura and/or Allied's liability was reduced by Shekoski's 30-percent contribution to the incident, but that likely will be offset by several hundred thousand dollars in costs and interest incurred since the verdict, Gursten said.

On appeal, Secura argued that Bindig's driving record should not have been introduced, and the plaintiffs should not have been able to refer to the Secretary of State's commercial drivers license manual and the JJ Keller safety manual during opening statements and questioning of Bindig and Allied owner Keith Murrell.

But a state Court of Appeals panel of judges Donald S. Owens, Kathleen Jansen and Peter D. O'Connell disagreed.

The defendants could seek an appeal to the state Supreme Court.