



## The Voice

### And The Defense Wins

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DRI members [Terry A. Sides](#) of **Hale Sides LLC** and [Timothy P. Donahue](#) of **Donahue & Associates** recently obtained a jury verdict for the defense in a wrongful death action in St. Clair County, Alabama.

In November 2007, while on patrol around midnight, a police officer was dispatched to a burglary-in-progress at a residence. The homeowner and her daughter, armed with a gun, believed the burglar had already entered their home. The officer turned on his emergency lights and siren and began driving to the residence. While en route on a two-lane highway, the officer encountered a vehicle ahead traveling in the same direction. As the officer got closer to the vehicle, he observed the vehicle's brake lights come on. The vehicle then slowed and moved to the right side of the road, as required by Alabama law. The officer then moved into the left lane to pass the vehicle. Though he was unsure of his exact speed, the officer knew he was traveling over the posted speed limit of 55 miles per hour. As the officer attempted to pass the vehicle to the left, the vehicle, traveling at approximately 30 miles per hour, suddenly turned left in front of the officer. The two vehicles collided seriously injuring the officer and killing the other driver.

The family of the other driver filed suit against the police officer and his city employer for wrongful death. The family claimed that the officer's speed at the time of the accident (which, according to expert testimony, ranged between 74–86 mph) constituted a lack of due regard for safety. After considerable discovery and other pre-trial proceedings, the case went to trial in June 2015. Following testimony by numerous witnesses, the jury concluded that, though the police officer failed to exercise due regard for safety as he approached and began to pass the other vehicle, the other driver violated Alabama law by negligently turning left in front of the officer, and his contributory negligence was the cause of the collision. Accordingly, the jury returned a defense verdict in favor of the officer and the city.

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