



## Civil trial set in case that involves Mercersburg area neighbors' dispute, death of one of them

By VICKY TAYLOR Staff writer

A lawsuit against the estate of the man who died in a fight with his neighbor in 2008 has been set for the March trial term.

The suit, filed by Bryan and Susan Kendall against the Don Berkebile estate, is asking for \$350,000 in damages: A total of \$200,000 for Bryan Kendall and \$150,000 for Susan Kendall.

The suit was filed in October 2008, just more than three months after Berkebile died of severe head and neck injuries during a fight with Bryan Kendall.

Franklin County Coroner Jeff Conner had ruled that Berkebile's death was homicide, or death at the hands of another person. For more than a year the district attorney's office had not decided whether to file charges against Kendall.

Although the suit was assigned to an out-of-town judge, Senior Judge Eugene E. Fike II, it languished in court with little action as Pennsylvania State Police and the DA's office continued an investigation into Berkebile's

death.

Berkebile was dead at the scene of the July 28, 2008, fight beside an access road running from Blue Spring Road in Montgomery Township to the Kendall home.

He was 81 years old. At 40, Kendall was half his age.

According to police reports at the time, the fight started around 7 a.m. after Kendall stopped on the road and got out of his truck when Berkebile began yelling at him. Berkebile was burning brush beside the road on his property, police said.

Police said that at some point, Berkebile pulled a gun loaded with birdshot from a holster on his belt and fired at Kendall. Kendall told police he fell to the ground and pretended to be dead as Berkebile came toward him, putting the gun back into the holster.

When Berkebile got close, Kendall grabbed the older man and struggled with him until he stopped moving. He then took the gun and holster off Berkebile's body and threw it a distance away.

Kendall then used his cell phone to call 911.

He was flown to Milton S. Hershey Medical Center, Hershey, where he received medical care for the birdshot wounds. Berkebile was pronounced dead at the scene.

Advertisement

  
**Florida Tech**  
UNIVERSITY ONLINE

**Bring the Classroom to Your Home**  
With a Degree Online From Florida Tech

 **APPLY TODAY!**  
FloridaTechOnline.com/FD | 1-888-253-5946

Print Powered By 



Last month, District Attorney Matt Fogal, who inherited the case when Jack Nelson died while in office in October, decided he didn't have enough evidence to justify criminal charges against Kendall.

On Feb. 1, Harrisburg attorney Joseph M. Melillo joined the suit, representing the Kendalls. He is a member of the firm Navitsky, Olson & Wisneski, LLP, the firm that is handling the case for the Kendalls.

Bryan Kendall is asking for a total of \$200,000 in damages from the Berkebile estate, \$50,000 in each of four categories: for Berkebile's alleged assault against him, for battery, for Berkebile's alleged negligent conduct and for punitive damages.

Susan Kendall is asking for \$150,000 for "loss of companionship, support, services, society and consortium" of her husband.

In the suit, Kendall said he had more than \$40,000 in medical bills and suffered "great physical and mental pain and suffering" as well as "great humiliation and embarrassment," and that he has "sustained a loss of earnings by reason of not being able to fulfill his employment."

The Kendalls are seeking a jury trial. The jury will be selected in March. A specific date for the trial has not yet been set.

-----  
Vicky Taylor covers Franklin County court and community issues. She can be reached at [vtaylor@publicopinionnews.com](mailto:vtaylor@publicopinionnews.com) or 262-4753.

Advertisement

An advertisement for Florida Tech University Online. It features the university's logo on the left, which includes a globe icon and the text "Florida Tech UNIVERSITY ONLINE". In the center, the text reads "Bring the Classroom to Your Home With a Degree Online From Florida Tech". Below this, there is a circular icon with a right-pointing arrow and the text "APPLY TODAY! FloridaTechOnline.com/FD | 1-888-253-5946". On the right side of the ad, there is a black and white photograph of an elderly man with glasses, holding a white pointer stick and standing in front of a chalkboard with some faint writing on it.

Print Powered By FormatDynamics™