

# The Alabama Jury Verdict Reporter

The Most Current and Complete Summary of Alabama Jury Verdicts

March, 2012

Statewide Jury Verdict Coverage - Published Monthly

12 A.J.V.R. 3

*Alabama's Jury Verdict Reporter Since 2001*

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## Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts in Alabama including circuit, presiding judge, parties, case number, attorneys and results.

\* \* \*The Book is Back with its Tenth Edition \* \* \*

## The AJVR 2011 Year in Review

This important volume, at 632 pages, has just been published and provides the Alabama litigator a comprehensive study of jury trials in 2011. It includes detailed analysis of every kind of case, easily sorted and indexed for quick reference. The tenth edition in the series, it provides the reader a complete **ten-year** look at some 3,000-plus Alabama jury verdicts.

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**Wantonness - A man who presented at an ER with 10 stab wounds at first claimed he had been wounded during a robbery attempt; later he claimed his attorney friend had gone crazy and stabbed him with gigantic needles after the friend had locked himself in the bathroom to avoid a kidnapping attempt while waiting to be rescued by Navy SEALS he had met on Facebook**  
*George v. Estate of Small*, 09-2192  
Plaintiff: Lee L. Hale, Mobile and James Brandyburg, *The Brandyburg Firm*, Mobile

Defense: John C. S. Pierce and Gabrielle E. Reeves, *Butler Pappas Weihmuller Katz Craig, LLP.*, Mobile  
Verdict: \$125,000 for plaintiff

Circuit: **Mobile**, 1-12-12

Judge: John R. Lockett

In the afternoon of 4-1-09, Lafredique George, age 28, presented at Providence Hospital with about ten stab

wounds. He told hospital staff he had attempted to rob a man at knifepoint 15 minutes earlier and had received his wounds after his intended victim took the knife from him. George also tested positive for amphetamine and methamphetamine, benzodiazepine, cocaine, opiates, and cannabinoid. He incurred \$43,731 in medical expenses.

Later, George told a very different story about how he had been stabbed. In this version of events, George had gone over to the residence of his friend, Ryan Small, a 34-year-old Alabama attorney, on 3-31-09 after Small phoned George.

Small told George that he had locked himself in the bathroom and was hiding because business rivals of Small's father were planning on kidnapping him in order to extort money from Small's father. Small had met a couple of Navy SEALS on Facebook who were en route to Small's residence to rescue him, and Small wished George to lead them

The Alabama Jury Verdict Reporter  
2011 Year in Review

The 2011 Year in Review is back with its **tenth** edition. At nearly 631 pages, it represents the cumulative and comprehensive study of Alabama jury trials -- only this volume is better because it summarizes a remarkable *ten* years of data and 3,000-plus verdicts. It looks at verdict results in an encyclopedic fashion, including over twenty reports, chronicling all sorts of patterns, trends and categories, all with an eye towards valuing and settling civil tort claims.

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Detailed won-loss percentages for every variety of case with average verdict results by category. How often did plaintiffs win car wreck cases? In how many of the 32 Medical cases? Slip and Falls? It's all in the Book.

***Auto Negligence Report***

Won-loss percentages and average verdicts are presented not only statewide, but also by region. What were the biggest verdicts?

***Medical Negligence Report***

The AJVR summarized all the medical trials in 2011 (32), with complete ten-year totals (**300-plus** since 2002). How often did plaintiffs win? How often did they win the death-medical cases versus the non-death? Who were the attorneys that tried the cases?

***The Attorney List***

A summary of every attorney who tried a reported case from 2002 to 2011, sorted and included a brief description of the case type, county, party represented and result. An exclusive report summarizes the lawyers and law firms that tried the most cases.

***The Million Dollar Verdicts***

Who made the list in 2011? There were 16 this year and 258 since 2002. 10-year totals are included.

*The Case Index also includes the full text of the nearly 300-plus verdict results from 2011*

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**Hostile Environment (Employment) - Three female administrative employees at Alabama State University alleged they were harassed (because of their race and sex) by a female college bigwig and then each suffered retaliation when they complained**

*Weatherly et al v. Alabama State University*, 2:10-192

Plaintiff: Candis A. McGowan, *Wiggins Childs Quinn & Pantazis*, Birmingham and Joseph F. Fitzpatrick and Monica L. Arrington, Montgomery  
 Defense: Kenneth L. Thomas, Richelle T. Harris and H. Lewis Gillis, *Thomas Means Gillis & Seay*, Montgomery and Mark Englehart, *Englehart Law Offices*, Montgomery  
 Verdict: \$359,453 for Weatherly  
 \$355,073 for Williams  
 \$324,592 for Burkhalter

Federal: **Montgomery**, 2-17-12  
 Judge: W. Harold Albritton

At relevant times in this case, Jacqueline Weatherly, Cynthia Williams and Lydia Burkhalter worked in administrative positions for Alabama State University. [Weatherly and Williams are black – Burkhalter describes herself as biracial.] In the course of their employment, the three plaintiffs came in contact with or were supervised by Lavonette Bartley. Bartley is a long-time ASU employee who worked in the school's executive office.

While each of the claims of the three plaintiffs were nuanced, they each shared a common theme. Bartley engaged in a pattern of same-sex harassment that created a hostile environment. That harassment included touchings and offensive statements. The plaintiffs also alleged racial harassment, Bartley frequently using the "n-word" – it was even more difficult for the biracial Burkhalter who was called a white bitch among other pejorative remarks. Then when the plaintiffs complained of the harassment (including to university trustee bigwigs), they alleged a pattern of retaliation began.

In this lawsuit the three plaintiffs alleged separate race and sex hostile environment counts. They also presented a retaliation claim. If they prevailed the jury could award them

emotional damages and lost wages.

Alabama State defended the case, its defense comporting with Bartley's denials she had done nothing wrong. Other university bigwigs (including Bartley's boss) closed ranks that they'd never seen any improper conduct. The trustees too (including a sitting Circuit Court Judge in Dallas County) denied the plaintiffs had ever made complaints to them. [This directly contradicted testimony from the plaintiffs.]

The jury's verdict (after 12 hours of deliberation) was mixed as to each plaintiff. Weatherly prevailed on the racially hostile environment count, but lost on the sex-based count. She also prevailed on retaliation. The jury awarded her \$350,000 for emotional distress and \$9,453 more in lost leave. The verdict for Weatherly was \$359,453.

Williams prevailed too just as Weatherly had on the same counts. Her emotional damages were \$213,500, the jury adding \$141,573 more in lost wages. The award to Williams totaled \$355,073.

Burkhalter's prevailed (different than the two other plaintiffs) on both sex and race hostile environment counts. Her emotional suffering was \$230,000, the jury adding \$94,592 more in lost wages. Her award was \$324,592. When the record was reviewed, no judgment had been entered.

The trial lasted eight days. A university spokesman has since indicated ASU is considering an appeal. During its deliberations the jury had asked the court for a calculator.

**Auto Negligence - One vehicle rear-ended another after the driver looked away from the road to adjust the radio**

*Renda, et al. v. Moore*, 08-900630

Plaintiff: A. Patrick Ray, III, *Goldberg Attorneys, P.C.*, Birmingham; and J. Callen Sparrow, *Heninger Garrison Davis, LLC.*, Birmingham  
 Defense: Kimberly S. DeShazo, *Webster Henry Lyons & White, P.C.*, Birmingham

Verdict: Defense verdict  
 Circuit: **Jefferson**, 10-6-10  
 Judge: Joseph L. Boohaker

On the evening of 3-2-06, Angelia Renda was driving along Hwy. 79 near

its intersection with Narrows Road in Birmingham. With her as a passenger was Diane Harvell. Abruptly, they found themselves rear-ended by a vehicle driven by Casey Moore. Moore, who had just pulled out of an Exxon gas station onto Hwy. 79, had looked down to adjust the radio at just the wrong moment and had misjudged the stopping distance.

Renda and Harvell were injured as a result of the collision. The record does not show the nature of their injuries or the amount of their medical expenses.

Renda and Harvell filed suit against Moore and blamed Moore for causing the collision. Their theories included negligence and wantonness. They also named James Eagerton and claimed he had acted negligently in entrusting his vehicle to Moore. A third co-defendant was the UIM carrier State Farm Mutual Automobile Insurance Company.

Moore defended and minimized the damages claimed by plaintiffs. State Farm opted out. Eagerton was dismissed from the action.

After a two-day trial, a Birmingham jury returned a defense verdict. The court entered a consistent judgment.

**Termite Inspection Negligence After the buyers of a home obtained a report showing only a limited subterranean termite infestation, they belatedly discovered other subterranean termite infestations that the inspection company had not found**

*Martin v. Varner, et al.*, 07-448

Plaintiff: Stephen T. Etheredge and Lexa E. Dowling, *Buntin Etheredge & Dowling LLC.*, Dothan  
 Defense: Wade H. Baxley and M. Hampton Baxley, *Ramsey Baxley & McDougle*, Dothan

Verdict: \$85,000 for plaintiff

Circuit: **Houston**, 1-26-11

Judge: Henry D. "Butch" Binford

In March 2007, Donald and Sylvia Martin were thinking of buying a house at 103 Branchboro in Dothan. Being prudent people, they decided to obtain an Official Alabama Wood Infestation Inspection Report so as to reassure themselves that their new home would be termite-free. They contacted Gold's Pest Control, a business owned and operated by Brett Varner, to perform

intoxication. The record does not show whether he was diagnosed with other injuries. The amount of Collins' medical expenses is also unmentioned.

Collins decided to file suit against Grant and blame him for having hit his bicycle. Collins' theories included negligence and wantonness.

Grant had a different perspective. He believed he had been the victim of a drunk driver and that Collins had struck his Explorer. Admittedly, Collins' bicycle had only done a small amount of damage to the front bumper.

Nonetheless, Grant thought the sole person responsible for the collision was Collins. At the very least, Collins had been contributorily negligent.

Collins made an initial settlement demand of \$25,000. Grant countered with \$5,000. Collins rejected this but offered to settle for \$7,500. At this point, however, defense counsel informed plaintiff's counsel that the supervisor of Grant's adjuster had heard about the case and was becoming involved. The supervisor might have withdrawn the \$5,000 offer.

Ten minutes later, Collins stated he would accept the \$5,000 settlement offer. Grant's attorney, however, regretfully communicated that no offer was on the table. Collins filed a motion to enforce the settlement. Grant opposed it. Collins withdrew his motion before a ruling could be made.

The case proceeded to trial before a Pell City jury. After two days, the jury awarded Collins \$7,000. The court entered a consistent judgment.

Despite the generally favorable verdict, Grant moved for a new trial, arguing that the jury had been given overwhelming evidence of Collins' negligence and that a verdict in favor of a drunk bicyclist at night on an unlighted bicycle was setting a dangerous precedent. He also claimed the jury foreman had simply felt sorry for Collins.

Collins replied that he might have been drunk, but his drunkenness had not been the proximate cause of the accident. Furthermore, he insisted that the mark on Grant's Explorer showed that the Explorer had hit the bicycle, instead of the other way around.

In the end, the court denied the motion and allowed its judgment to stand. The judgment has since been

satisfied.

**Underinsured Motorist - A man stole and used prescription drugs and then fell asleep at the wheel before veering into oncoming traffic and striking another vehicle nearly head-on, causing major injuries to the other driver**

*Aldridge v. Farmers Ins. Exchange*, 09-900062

Plaintiff: Matt Glover and Josh Hayes, *Prince Glover & Hayes*, Tuscaloosa; and Hank Sanders, *Chesnut Sanders Sanders & Pettway*, Selma

Defense: David R. Wells, *Whitaker Mudd Simms Luke & Wells, LLC.*, Birmingham

Verdict: \$750,000 for plaintiffs

Circuit: **Hale**, 1-31-12

Judge: Jack W. Meigs

On 9-25-09, Bradley Matherson took a handful of his wife's prescription medicine for anxiety. He then broke into three Hale County homes and stole and used the prescription drugs he found there. After this, he went for a drive. Unfortunately, all the breaking and entering had been a tiring experience, and Matherson fell asleep at the wheel as he drove south along Ala. Hwy. 69.

Meanwhile, Linda Aldridge was driving north on Ala. Hwy. 69 near its intersection with Football Drive in Moundville. Matherson entered into her lane and struck her nearly head-on.

Aldridge was injured as a result of the collision. The record does not show the nature of her injuries or the amount of her medical expenses.

Matherson was charged with various felonies and pled guilty to unlawful possession of a controlled substance, burglary in the third degree, and theft of property. It was his third DUI.

Aldridge filed suit against Matherson and blamed him for causing the accident. Her theories included negligence and wantonness. She also named Helen Gurley, the owner of the vehicle, as a defendant and blamed her for carelessly entrusting the vehicle to Matherson. The third and final defendant was Farmers Insurance Exchange, the Aldridges' UIM carrier. Aldridge's husband, Lee, filed a derivative claim for loss of consortium.

Matherson and Gurley were

eventually dismissed from the action after paying the policy limits of \$300,000. Farmers defended and minimized the damages alleged by the Aldridges. It made an offer of judgment of \$401,000, less the \$300,000 already obtained by plaintiffs. The Aldridges did not accept the offer.

At the two-day trial, the Greensboro jury learned of Matherson's three DUIs and a fourth DUI that he received three days before the trial. It returned a verdict of \$750,000 in compensatory damages for plaintiffs. The court entered a judgment for \$200,000 in consideration of the previous settlement and the policy limits. Farmers has since satisfied the judgment.

**Auto Negligence - A soft-drink truck collided with a smaller truck after the smaller truck's teen driver tried to pull out of a gas station parking lot and stalled part of the way into the road**

*Coca-Cola Bottling Co. United v. Edmonds*, 10-900059

Plaintiff: James L. Sanders, II and Tim M. Allen, *Estes Sanders & Williams, LLC.*, Birmingham

Defense: Ralph D. Gaines, III and Travis I. Keith, *Gaines Wolter & Kinney, P.C.*, Birmingham

Verdict: Defense verdict

Circuit: **Winston**, 11-29-11

Judge: John H. Bentley

On 3-23-10, Michael Edmonds, age 16, was driving his father Stephen's truck on a visit to Michael's mother in Haleyville. Michael stopped at a Wavaho/Subway gas station to fill up the truck's tank. He realized too late that the station was closed, and so he started to pull out of the parking lot onto Ala. Hwy. 13.

Unexpectedly, the truck stalled with the front bumper being one to two feet out into the road. As Michael tried to restart the truck, another truck owned by Coca-Cola Bottling Company United and driven by Coca-Cola's employee Shannon Webb approached traveling south. Webb was unable to avoid Michael's vehicle, and the two collided.

Coca-Cola filed suit against Michael and blamed him for causing the collision. It also named Stephen as a co-defendant. Coca-Cola's theories included negligence. Michael and

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