

# The Alabama Jury Verdict Reporter

The Most Current and Complete Summary of Alabama Jury Verdicts

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Statewide Jury Verdict Coverage - Published Monthly

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## Unbiased and Independently Researched Jury Verdict Results

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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.

### Truck Negligence - A woman driving an SUV was killed in a roll-over crash with a dump truck

*Estate of Parrish v. T.K. Stanley, Inc., et al.*, 04-501

Plaintiff: Perry G. Shuttlesworth, *Shuttlesworth & Moore*, Birmingham; and Ralph "Buddy" L. Armstrong, Bessemer

Defense: Eugene P. Stutts and Jarrod B. Bazemore, *Spain & Gillon, LLC.*, Birmingham

Verdict: \$1,500,000 for plaintiff

Circuit: **Jefferson**, 10-13-06

Judge: Dan C. King, III

In the early morning of 1-6-04, Janet Parrish, age 37, was on her way to her job as the manager of the lady's shoe department at Rich's Department Store in Brookwood Village. Parrish was getting an early start that day because she was going to start the beginning of the year inventory.

Parrish was driving a 1999 Ford Explorer and was traveling near the intersection of Woodhaven/Aviation Road and Morgan Road in Jefferson County. At the same time, Raymond Tidmore was driving a 1993 Mack Truck owned by his employer, T.K. Stanley, Inc.

T.K. Stanley is a company headquartered in Waynesboro, MS that specializes in the transportation of drilling equipment. Tidmore, who had worked as a truck driver for T.K. Stanley for only a few weeks, had left his employer's terminal in Tuscaloosa and was going east on Morgan Road to a job site.

Parrish and Tidmore reached the intersection at the same time. However, they offer different versions of what happened next. According to Parrish, Tidmore came around a curve and down a hill toward the intersection. In doing so he entered her lane, and the two collided in an offset frontal crash.

Tidmore and T.K. Stanley, on the other hand, claim Parrish ran a stop sign and crossed the intersection. The two vehicles were angled at roughly 90 degrees to each other when Parrish ran

into the left side of the truck. The impact was enough to push the truck off the right side of the road.

Regardless of how it happened, the two vehicles did collide. The initial impact sent Parrish's vehicle spinning and at least somewhat deflected Tidmore's dump truck. In the next instant Parrish's still spinning SUV collided a second time with the truck.

In consequence of the secondary impact, Parrish's SUV left the road, rolled over onto its roof, and hit a guardrail at the southeast corner of the intersection. Tragically, Parrish did not survive the crash. For his part, Tidmore emerged from his truck, fell to the ground, and for a time was unable to move.

Parrish's estate filed suit against Tidmore and blamed him for crashing into her and causing her death. The estate also targeted T.K. Stanley and alleged numerous violations of Federal Motor Carrier Safety Regulations (FMCSR).

Among the claimed violations were allegations that Tidmore was not qualified to drive the truck, he had failed to keep a driver's log, and he had exceeded the maximum number of service hours. In addition to the safety regulation violations, plaintiff also alleged the truck Tidmore was driving was not mechanically sound, particularly regarding its brakes.

Tidmore and T.K. Stanley defended the case and denied any wrongdoing. Instead, they blamed the crash on Parrish for crossing the intersection in Tidmore's path. The identified defense experts included Whitney Morgan, an expert on safety regulations. According to Morgan, defendants did not actually violate any of the safety regulations the estate had referenced.

Two other defense experts were John Lietchy, Accident Reconstruction, and Rodney Ellis, a mechanical expert. Ellis offered the opinion that the truck's brakes were functional and in compliance with all applicable regulations.

The case was tried to a jury in Bessemer. The verdict was for the estate in the amount of \$1,500,000. If the court entered a judgment, it was not part of the record at the time the AJVR reviewed it.

**Auto Negligence - A motorcyclist was compensated for injuries he sustained in a crash with another motorist; the motorcyclist's wife was unsuccessful on her claim for loss of consortium**

*Darmer v. Barber*, 05-66

Plaintiff: John A. Henig, Jr. and Robert D. Segall, *Copeland Franco Screws & Gill, P.A.*, Montgomery; Elizabeth Vickers Addison, Montgomery

Defense: Earl T. Forbes, *Spurrier Rice & Hall*, Huntsville

Verdict: \$17,600 for Joe Darmer; defense verdict on consortium claim of Rene Darmer

Circuit: **Limestone**, 1-31-06

Judge: Robert M. Baker

It was 8-3-04, and Joe Darmer, age 51, was riding a motorcycle on his way to an establishment called "Iron Horse Parts." Darmer was traveling on Hwy 53 South between the intersections with Park Street and Carson Way in Ardmore when he decided to make a left turn.

In preparation to make his left turn, Darmer slowed down, turned on his left turn signal, checked for traffic behind him, and then came to a complete stop to wait for traffic to clear. An instant later, a vehicle being driven by Martha Barber ran into him.

Darmer's injuries included facial tears, burns, and injuries to his knee, shoulder, and neck. His medical expenses seem to have come to approximately \$6,256. Of that amount, \$2,000 was paid by AIG Insurance pursuant to the medpay provision of what was apparently one of several of Darmer's insurance policies.

Darmer filed suit against Barber and blamed her for causing the crash. In addition to his other damages, Darmer claimed lost wages of \$2,958. He also sought future damages, punitive damages, and pain and suffering.

In addition to his underlying claim, Darmer also made underinsured motorist claims against both Progressive and American. However, both of those insurers later opted out of

the litigation. Finally, Darmer's wife presented a derivative claim for her loss of consortium.

During the course of the litigation, Barber's insurer, Alfa Insurance, paid Darmer \$22,183 for the property damage to his motorcycle. Also, Progressive paid him \$20,000 as an advance on an offer by Alfa for Barber's policy limits.

A jury in Athens heard the case and returned a complex verdict. On Darmer's claim, he was awarded past damages of \$7,600, plus another \$10,000 for future damages. The jury rejected punitives. That brought Darmer's total award to \$17,600.

The jury also initially found for Rene on her consortium claim but awarded her zero damages. The court informed the jury that such a verdict was inconsistent and sent them back for further deliberation. This time the jury returned with a defense verdict on Rene's consortium claim. The court entered a judgment that reflected the verdict.

Post-trial, Darmer was awarded costs of \$1,408. He and Rene also filed a motion for a new trial or to alter, vacate, or amend the judgment. The grounds for the motion were two-fold.

First, plaintiffs argued that the verdict was inadequate in that it did not award Darmer anything for his pain and suffering. Second, they argued that Rene was entitled to be compensated for her loss of consortium. The jury's failure to make such an award went against the weight of the evidence. The court denied the motion, and the judgment was later satisfied.

**Auto Negligence - Plaintiff treated for chronic radiating neck pain after a chain-reaction rear-ender on the interstate**

*Ellis v. Grunewald et al*, 2:04-2681

Plaintiff: F. Tucker Burge, *Burge & Burge*, Birmingham

Defense: Sherry Collum-Butler, *Gonce Young & Collum-Butler*, Florence for Grunewald

Michael S. Burroughs, *Burroughs & Guin*, Tuscaloosa for Gregg

Verdict: \$353,603 for plaintiff assessed against Gregg only; Defense verdict for Grunewald

Federal: **Birmingham**, 2-28-07

Judge: John E. Ott

It was 8-27-03 and Billie Ellis, age 62, was traveling on I-65 near Alabaster, AL in a vehicle driven by her husband. While proceeding in the left lane, the Ellis vehicle approached slowing and then stopped traffic. She came to a stop. An instant later she was rear-ended by Barbara Gregg. Following that first impact, Ellis felt a second crash. That secondary collision was blamed on Jonathon Grunewald who rear-ended Gregg.

While not seeking care at the scene, Ellis has since complained of chronic radiating neck pain when she returned to her home in Tennessee. In this diversity action, she blamed her injuries on a combination of negligence by Gregg and Grunewald. Key to her proof was a memory of two impacts.

Gregg recalled that she was able to come to a stop (luckily) only then to be rear-ended and pushed forward by Grunewald. Grunewald, for his part, admitted hitting Gregg, but wasn't sure who hit who first. He did not that in any event, the second impact was remembered by Ellis as being minor.

The verdict on liability was mixed. While finding Gregg at fault, Grunewald was exonerated. Then to damages in a specific verdict form, Ellis took medicals of \$24,803, plus \$225,000 for suffering. A category called permanent injury was valued at \$103,803. The verdict totaled \$353,603 – a consistent judgment reflected the mixed result.

**Medical Negligence - At the conclusion of a cataract surgery, an ophthalmologist injected antibiotics directly into the patient's eye and thereby left the patient functionally blind**

*Beasley v. Geiger*, 05-244

Plaintiff: Brent F. Bradley, *Kinsey Troxel Johnson Walborsky & Bradley*, Pensacola, FL

Defense: Joseph L. Reese, Jr., *Starnes & Atchison*, Birmingham

Verdict: \$450,000 for plaintiff

Circuit: **Jefferson**, 11-16-06

Judge: Allwin E. Horn, III

On 2-6-03, Gerald Beasley, age 62, was undergoing cataract surgery at the hands of Greer Geiger, an ophthalmologist in Birmingham. The procedure, known as phacoemulsification, involves making a

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