

The Alabama Jury Verdict Reporter

The Most Current and Complete Summary of Alabama Jury Verdicts

April, 2023

Statewide Jury Verdict Coverage - Published Monthly

23 A.J.V.R. 4

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.

Premises Liability - A driver making a delivery to a Dollar General Store fell on a ramp the store had provided and suffered a rotator cuff tear and a broken toe

Agee v. Dolgencorp, LLC., 20-900838
Plaintiff: W. Bradford Kittrell, Brett W. Aaron, and Michael L. Fondren,
Andy Citrin Injury Attorneys, P.C.,
Daphne
Defense: Caroline Pryor and Joseph H. Driver, *Carr Allison*, Daphne
Verdict: \$1,954,024 for plaintiff
Circuit: **Mobile**, 3-15-23
Judge: S. Wesley Pipes

In April of 2019, Jason Agee was working as a delivery driver for a company called Werner Enterprises. Agee's job was limited exclusively to making deliveries to Dollar General Stores. In order to carry out that responsibility, he followed a regular route.

One of the Dollar General Stores on Agee's regular route was located on Airport Boulevard in Mobile. He had made deliveries to that store on many occasions. The normal procedure was for store personnel to place ramps at the back entrance so Agee could roll his carts of merchandise into the store.

On 4-20-19, Agee was making one of his regular deliveries to the Airport Boulevard store. After conferring with store personnel and completing the necessary paperwork, he went to his truck to start unloading his carts of merchandise.

By this stage of the process store employees had placed two ramps at the rear entrance to the store for Agee's use. He then began the process of wheeling his carts over the ramps and into the store. He had completed several such trips when

disaster struck.

Agee was moving a cart containing cases of water and had gotten over the first ramp. However, his cart became stuck on the second ramp. Agee braced his foot on the edge of the first ramp and tried to push the cart over the second ramp. As he did so the first ramp gave way and slipped out of place.

This caused Agee to lose his balance and fall to the ground. As a result of the incident he suffered a rotator cuff tear and a broken toe. The record does not describe the course of his medical treatment or reveal the amount of his medical treatment.

Agee filed suit against Dolgencorp, LLC. (the owner and operator of the Dollar General Store) as well as against a large number of the store's personnel. They were all later dismissed by joint stipulation except for Dolgencorp.

Agee alleged counts for negligence; wantonness; negligent inspection, maintenance, repair, management, and/or operation; and wanton inspection, maintenance, repair, management, and/or operation. The court later granted summary judgment to Dolgencorp on the wantonness counts but denied it on the negligence counts.

The case thus proceeded solely against Dolgencorp on counts for negligence. According to Agee, the ramps should have been permanently anchored in place. Instead, they were detached and able to slip out of place, thereby causing injury. Agee's identified expert was Anthony Sasso, Engineer, Tallahassee, FL.

Dolgencorp defended the case and

of the parties.

When the dust settled, the only remaining defendant was Dr. Harper. The estate criticized him for failing to diagnose and treat Kent's condition properly given Kent's prior medical history and lengthy period of immobility during surgery that put him at high risk of developing DVT and/or PE.

The estate further criticized Dr. Harper for failing to prescribe post-operative anti-coagulants when Kent began to display symptoms after the surgery. The estate's sole standard of care expert was Dr. Geoffrey Risley, Vascular Surgery, Fort Walton Beach, FL.

Dr. Harper defended the case and denied that his treatment of Kent constituted a breach of the general surgery standard of care. Instead, Dr. Harper characterized his treatment of Kent as appropriate in all respects, and he denied having been the cause of Kent's death.

The case was tried in Opelika. On the third day of trial, Dr. Harper moved in open court to exclude the testimony of plaintiff's expert, Dr. Risley. The court granted that motion, and plaintiff rested its case. The court then granted a defense motion for a judgment as a matter of law. Plaintiff filed a motion to alter, amend, or vacate that judgment. At the time the AJVR reviewed the record, the motion was still pending.

Case Documents:

[Final Judgment](#)

[Plaintiff Motion to Vacate](#)

Employment Retaliation - An employee for a Hyundai subsidiary alleged she was fired when she complained of race discrimination based on bias against her chosen hair style – i.e., she wears her hair naturally and has dreadlocks – a Montgomery jury found for the plaintiff and assessed punitive damages in the sum of \$511,200

Key v. Dynamic Security, 2:19-767

Plaintiff: Heather Leonard, *Heather Leonard, P.C.*, Birmingham and Leslie A. Palmer, *Palmer Law*, Birmingham
Defense: Wesley Redmon and Susan C. Bullock, *FordHarrison*, Birmingham

Verdict: \$811,264 for plaintiff

Federal: **Montgomery**, 3-29-23

Judge: Emily C. Marks

Davita Key, who is black, saw an advertisement on Indeed.com for a job opening at the Hyundai manufacturing plant in Montgomery. It was for a mail room position. The plant is structured with two companies, Hyundai Manufacturing (HM) and HEA. HM operates the plant while HEA handles security, janitorial and other ancillary tasks.

HEA in turn relies on subcontracts. The relevant subcontractor in this case was Dynamic Security. It employs some 1,300 persons that work at Hyundai in a variety of jobs and it had placed the ad for the mail room spot.

Key interviewed for the job on 7-9-17, and it went well. She was offered the job. Key was excited as the job promised opportunities for advancement. At the end of the interview Key was told there might be a problem with her hair.

Key doesn't chemically straighten her hair. She wears neat and natural dreadlocks that are the length of her shoulder. The company had a policy that dreadlocks were not appropriate. Key wanted the job and when told she needed to "Up-Do"

her hair to satisfy Hyundai standards, she was willing to do that.

When Key came to work for her first day on 7-31-19, she was immediately challenged about her hair. She was sent home. She returned the next day wearing a hat and made an appointment to cut her hair. Her hair was still a problem at Hyundai. Key made an informal verbal complaint that she didn't believe she was being treated fairly.

Key was removed from the Hyundai facility back to the main Dynamic Security office. She recalled being told that the Koreans that ran Hyundai did not like black employees wearing dreadlocks. At this juncture she made a written complaint about the issue. Ultimately she was taken off the job at Hyundai and not reassigned by Dynamic Security.

In this lawsuit Key advanced a variety of counts against both Dynamic Security and the Hyundai defendants. The primary claim was employment retaliation. That is, she complained of race-related hair bias and suffered retaliation in being removed from her job at Hyundai and not being assigned elsewhere. Key sought compensatory damages encompassing lost wages and emotional distress, as well as the imposition of punitive damages.

Key had also presented counts for race discrimination (hair bias) and pregnancy discrimination. Upon taking the job and reporting to work, she told her employer she was pregnant. She recalled that hostility began after she informed Dynamic Security she was pregnant.

Dynamic Security moved for summary judgment on all counts as did the Hyundai defendants. The Hyundai defendants prevailed as they were unaware of Key's complaints. Dynamic Security prevailed on the discrimination counts as Key did not sue within 90

However, the court reduced the award to plaintiffs' available policy limits and entered a judgment in the amount of \$150,000 for Karen Lovejoy and \$125,000 for Lemuel Lovejoy. To this amount was added costs of \$11,374. State Farm has satisfied the judgment.

Case Documents:

[Jury Verdict](#)

[Final Judgment](#)

Tire Negligence - Plaintiff was severely injured when a tire came off a camper trailer that was approaching plaintiff on a highway and crashed into plaintiff's driver's side windshield

Yates v. Heredia-Hicks, 19-900062

Plaintiff: E. Mark Ezell and Bradley H. Ezell, *E. Mark Ezell, P.C.*, Butler

Defense: Caitlin V. Malone, *Webster Henry Bradwell Cohan Speagle & DeShazo, P.C.*, Montgomery

Verdict: \$100,000 for plaintiff

Circuit: **Choctaw**, 3-7-23

Judge: C. Robert Montgomery

On 5-27-18, Darin Yates, then age 52, was driving south on AL 114 in Pennington. At the same time, Oscar Heredia-Hicks approached from the opposite direction in a truck that was pulling a camper trailer.

Yates saw Heredia-Hicks approaching. As the two vehicles drew near each other, a tire from the driver's side of the camper trailer suddenly came off. Momentum carried the tire past Heredia-Hicks's truck and directly toward Yates.

When Yates saw what was happening, he had only seconds to react. He quickly applied his brakes in an effort to avoid the oncoming tire. His effort was useless. In the next instant the tire hit the front of his vehicle and then crashed into his windshield on the driver's side.

Yates sustained serious injuries to his head, back, and hip. The record does not reveal the amount of his

medical expenses. Yates filed suit against Heredia-Hicks and blamed him for failing to properly install, maintain and control the tire.

Yates also presented an underinsured motorist claim against his own insurer, Liberty Mutual. The record does not reveal the UIM limits under the policy. Liberty Mutual opted out of the case, and the litigation proceeded against Heredia-Hicks. He defended and minimized Yates's claimed injuries.

The case was tried for two days in Butler. The jury returned a verdict for Yates and awarded him damages of \$100,000. The court entered a judgment for that amount. Yates has filed a post-trial motion for costs of \$2,242. At the time the AJVR reviewed the record, the motion was still pending.

Case Documents:

[Jury Verdict](#)

[Final Judgment](#)

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The Alabama Jury Verdict Reporter is published at 9462 Brownsboro Road, No. 133 Louisville, Kentucky 40241; Denise Miller, Editor; Sandra Tharp, Editor Emeritus, Aaron Spurling, Editor and Shannon Ragland, Associate Editor.

Phone at 1-866-228-2447.

Annual subscriptions are \$349.00 per year.

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