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Statewide Jury Verdict Coverage - Published Monthly

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In This Issue

Jefferson County

Medical Neg. - Defense verdict	p. 1
Premises Liability - \$25,000	p. 2
Auto Negligence - \$15,000	p. 4
Auto Negligence - Defense verdict	p. 6
Auto Negligence - \$40,000	p. 7

Mobile County

Auto Negligence - \$400,000	p. 2
Ins. Contract - Defense verdict	p. 5
Auto Negligence - \$16,500	p. 8

Madison County

Auto Negligence - \$100,000	p. 3
-----------------------------	------

Federal Court - Dothan

Emp. Contract - For plaintiff	p. 3
-------------------------------	------

Montgomery County

Medical Neg. - Defense verdict	p. 7
--------------------------------	------

Baldwin County

Outrage - Defense verdict	p. 7
---------------------------	------

Clarke County

Landlord Neg. - Defense verdict	p. 8
---------------------------------	------

Geneva County

Battery - Defense verdict	p. 9
---------------------------	------

Morgan County

Auto Negligence - Defense verdict	p. 9
-----------------------------------	------

Etowah County

Underinsured Motorist - \$65,000	p. 9
----------------------------------	------

Shelby County

Auto Negligence - \$8,500	p. 10
---------------------------	-------

Houston County

Truck Negligence - \$775,000	p. 10
------------------------------	-------

Tuscaloosa County

Auto Negligence - Defense verdict	p. 11
-----------------------------------	-------

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Medical Negligence - An elderly woman died after being treated at a clinic for breathing difficulties; the woman's estate blamed her death on an undiagnosed anaphylactic reaction to an antibiotic injection given to her by the clinic staff

Estate of Castleberry v. Ajamoughli, et al., 10-90003296

Plaintiff: J. Callen Sparrow, *Heninger Garrison & Davis*, Birmingham

Defense: Lee T. Clanton and Larry W. Harper, *Porterfield Harper Mills Motlow & Ireland, P.A.*, Birmingham

Verdict: Defense verdict

Circuit: **Jefferson**, 2-28-14

Judge: Caryl Penney Privett

On 11-17-09, 74-year-old Etta Sue Castleberry was having difficulty breathing. Castleberry visited the American Family Care Clinic in Birmingham where she was worked

up by clinic employee Dr. Ghaith Ajamoughli and the clinic's staff and given an injection of an antibiotic called ceftriaxone.

As Castleberry was leaving the clinic, she began feeling bad. She sat down, and the clinic's staff came to her aid to see what was wrong. In the next few moments, Castleberry's condition deteriorated rapidly. At that point Dr. Ajamoughli again became involved in her care.

Dr. Ajamoughli ordered a call put in to 911, and efforts were begun to resuscitate Castleberry. The EMTs soon arrived and intubated her. She was then transported to St. Vincent's Hospital East in Birmingham where she died some days later.

Castleberry's estate filed suit against Dr. Ajamoughli and American Family Clinic. Plaintiff alleged that Castleberry had suffered

an anaphylactic reaction due to the antibiotic injection. It was plaintiff's theory that she should not have been given the injection in the first place due to her history of being allergic to penicillin. Furthermore, plaintiff alleged, once the injection was given, Castleberry's anaphylaxis was not diagnosed or properly treated.

Dr. Ajamoughli and American Family Clinic defended the case and denied there had been any cross reactivity between penicillin and the antibiotic Castleberry had been given. Thus, defendants denied Castleberry had suffered anaphylaxis at all. Defendants also insisted that all of Dr. Ajamoughli's actions had been appropriate.

The case was tried for five days in Birmingham. The jury returned a verdict for the defense, and the court entered a consistent judgment. There were no pre-trial settlement offers or demands, no post-trial motions, and no appeals. The case is now closed.

Auto Negligence - A driver with pre-existing injuries to his neck and knee suffered additional injuries in a motor vehicle collision

Pritchard v. McCants, 12-902722

Plaintiff: Edward P. Rowan, *Taylor Martino, P.C.*, Mobile

Defense: Victor Arnell Dubose, *Law Offices of Victor A. Dubose*, Daphne

Verdict: \$400,000 for plaintiff

Circuit: **Mobile**, 5-7-14

Judge: Michael A. Youngpeter

On 1-18-11, James Pritchard, Jr. was driving south in the left-hand turn lane on Dauphin Island Parkway near its intersection with Old Military Road in Mobile. In front of him, Broderick McCants pulled out from a Checkers restaurant with the intention of heading north along Dauphin Island Parkway. The two vehicles collided.

Pritchard was not transported

from the scene by ambulance. Instead, he was treated by a chiropractor, Chris Corsentino, and two orthopedic surgeons, Dr. Todd Volkman and Dr. Joseph McGowin. Dr. Volkman performed a cervical fusion, and Dr. McGowin performed arthroscopic surgery to Pritchard's left elbow and left knee.

Three years after the wreck, the orthopedic surgeon Dr. Milton Wallace took over treatment of Pritchard and performed a total knee replacement. Pritchard suffered from extensive pre-existing injuries to both the neck and the left knee. The record does not show the amount of his medical expenses.

Pritchard filed suit against McCants and blamed him for causing the accident. His theories included negligence and wantonness. Pritchard also named his UIM carriers, State Farm Mutual Automobile Insurance Company and USAA Casualty Insurance Company, as co-defendants.

State Farm and USAA opted out of the action, and their involvement was not mentioned to the jury. McCants, who was defended by GEICO, minimized the damages claimed by Pritchard.

Before trial, Pritchard made a demand of \$200,000. McCants offered \$105,000. A settlement did not occur.

After a three-day trial, a Mobile jury returned a verdict of \$400,000. The court entered a consistent judgment.

Premises Liability - A visitor to Legion Field stadium stumbled and fell on a sidewalk linking the stadium with the parking lot

Boyd v. City of Birmingham, 12-904030

Plaintiff: G. Whit Drake and S. Drew Barnett, *Drake Law Firm*, Birmingham
Defense: Fredric Lynn Fullerton, II and Ronald Da'Von Jackson, *City of Birmingham - Attorney's Office*, Birmingham

Verdict: \$25,000 for plaintiff

Circuit: **Jefferson**, 2-11-14

Judge: Elisabeth A. French

On 10-29-11, Doris Boyd parked in the parking lot of Legion Field stadium, located at 400 Graymont Avenue West in Birmingham. While she was walking along the sidewalk connecting the parking lot with the stadium, she stumbled and fell.

Boyd was injured as a result of her fall. The record does not show the precise nature of her injuries, but she incurred \$21,728 in medical expenses.

Boyd filed suit against the City of Birmingham as the owner of the stadium and blamed it for allowing a defect to exist in the sidewalk. Her theories included negligence and wantonness. The City defended and minimized the damages claimed by Boyd.

After a two-day trial, a Birmingham jury returned a verdict of \$25,000 for Boyd. The court entered a consistent judgment.

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Case Style _____

Jurisdiction _____ Case Number _____

Trial Judge _____ Date Verdict _____

Verdict _____

For plaintiff _____ (Name, City, Firm)

For defense _____ (Name, City, Firm)

Fact Summary _____

Injury/Damages _____

Submitted by: _____

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Menke has since moved for pre-judgment interest of some \$116,666 dating to January of 2011 when Menke turned sixty. The motion is pending.

Auto Negligence - A truck hit an SUV at an intersection while the SUV was stopped to wait for the traffic light to change

Jews, et al. v. Gonzalez, 11-1211
Plaintiff: Steven M. Mezrano, *The Mezrano Law Firm*, Birmingham for Jews; J. Craig Lewis, *Frank S. Buck, P.C.*, Birmingham for Olds
Defense: Mark C. Peterson, *Wade S. Anderson & Assocs.*, Birmingham
Verdict: \$15,000 for Olds; defense verdict on Jews' claim

Circuit: **Jefferson**, 10-10-13
Judge: Elisabeth A. French

On the morning of 5-24-11, the 63-year-old Landra Jews was driving a 2005 Ford Explorer on U.S. Hwy. 78. Her passenger was Pearlie Olds, age 47. The two were heading to the Arkadelphia Road satellite office of FEMA, located at the intersection of Forestwood Drive and Hwy. 78, to apply for assistance.

Jews pulled up to the traffic light at the intersection and waited for it to turn green so she could turn left.

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