

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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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.

Correction

In the August issue, we reported on the case of *Coiro v. Trinity Medical Center*. In that report, we stated that Dr. G. Blaine Bishop, Jr. settled with the plaintiff before trial. That information was incorrect. Plaintiff voluntarily dismissed Dr. Bishop from the case before trial. We regret the error.

Racing Negligence - A corner marshal and a novice motorcycle rider who was running practice laps in preparation for a race were both killed when the corner marshal ran onto the track to remove some debris and the rider collided with him

Estate of Helvey-Chandler v. Ed Bargy Racing, et al., 09-903782

Plaintiff: David H. Marsh and Rip Andrews, *Marsh Rickard & Bryan, P.C.*, Birmingham

Defense: Wade Richardson and Charles Grimes, *Richardson Clement P.C.*, Birmingham

Verdict: \$10,000,000 for plaintiff

Circuit: **Jefferson**, 8-24-12

Judge: Joseph L. Boohaker

On 5-22-09, Sutton Helvey-Chandler, a 33-year-old motorcyclist in the novice class, was training on the Barber Motorsports race track in Leeds for an event known as "Track Day." The track had been leased for "Track Day" by Zoom Motorsports, LLC., and the event was organized and run by Ed Bargy Racing, LLC. Helvey-Chandler's husband, Russell, was also running practice laps.

While Helvey-Chandler rode her motorcycle around the track, a corner marshal named Holley Hance ran onto the track to remove a dead bird that was littering the track. Hance, who had been trained by a company known as Flagging by Faynisha, LLC., ran directly into Helvey-Chandler's path, and she struck him. Both Hance and

Helvey-Chandler were killed.

The estate of Helvey-Chandler filed suit against Ed Bargy Racing, Zoom Motorsports, and Flagging by Faynisha and blamed them for Helvey-Chandler's death. The estate's theories included negligence and wantonness. In support of its position, the estate offered into evidence racing guidelines that stated that corner marshals should "never enter a hot track without permission from race control."

Flagging by Faynisha obtained summary judgment in its favor after discovery was performed and plaintiffs conceded Flagging by Faynisha had not been supervising Hance on the day of Helvey-Chandler's death.

Ed Bargy Racing and Zoom Motorsports defended and argued the blame for the collision rested on Helvey-Chandler. In response, the estate offered testimony from eyewitnesses, including another rider on the track and an accident reconstructionist, to show that Helvey-Chandler did all she could do to avoid striking the corner marshal in front of her.

In addition, defendants argued the corner marshal might have made a mistake but his conduct did not rise to the level of wantonness. Punitive damages, they insisted, were not appropriate under the circumstances.

After a week-long trial, a Birmingham jury disagreed with defendants as to Ed Bargy Racing and awarded the estate a verdict of \$10,000,000. The jury returned a defense verdict as to Zoom Motorsports. The court entered a consistent judgment.

Auto Negligence - A motor vehicle collision on a state highway allegedly left a driver with soft tissue injuries

Davis v. Lakin, 10-901308

Plaintiff: A. Patrick Ray, III, *Goldberg Attorneys, P.C.*, Birmingham

Defense: Benjamin R. Rice, *Wilmer & Lee, P.A.*, Huntsville

Verdict: Defense verdict

Circuit: **Madison**, 4-30-12

Judge: Donna S. Pate

On 10-4-08, Kelly Davis was driving along Ala. Hwy. 72 in Madison County when a vehicle driven by Theresa Lakin abruptly collided with her. The vehicle that Theresa was driving was owned by Russ Lakin.

Davis suffered soft tissue injuries, including lumbar strain, as a result of the collision. She incurred \$3,796 in medical expenses.

Davis filed suit against Theresa and Russ Lakin and blamed Theresa for causing the accident by bad driving and Russ for having permitted Theresa to use his vehicle. Her theories included negligence, wantonness, and negligent entrustment. Davis also named her UIM carrier, GEICO Casualty Company, as a co-defendant.

The Lakins defended and denied wrongdoing. They also argued Davis had been partly at fault and had failed to mitigate her damages.

Although the records does not show the disposition of Davis' claims against Russ and GEICO, they seem not to have survived to trial. A Huntsville jury reviewed the evidence and returned a defense verdict in favor of Theresa. The court entered a consistent judgment.

Medical Negligence - A patient on Coumadin tested normally at first for possible thinning of her blood; her condition worsened at a time when she was not being closely monitored, and she died

Estate of Bryant v. Gillis, 07-900030

Plaintiff: James B. Douglas, Jr., *McNeal & Douglas*, Auburn (on the first trial); Marrell J. McNeal, Auburn; Patrick C. Davidson, *Adams Umbach Davidson & White, LLP.*, Auburn; and Charles J. Kelley, *Holt Mussleman Kelley & Morgan*, Florence (on the second trial)

Defense: Randal H. Sellers and L. Ben Morris, *Starnes Davis Florie, LLP.*, Birmingham

Verdict: \$5,000,000 for plaintiff

Circuit: **Colbert**, 10-20-10

Judge: Jacqueline M. Hatcher

On 8-29-05, Dr. Frank Gillis, a family practitioner in Tuscumbia, prescribed 5 or 10 mg of Coumadin to Florine Bryant to treat her atrial fibrillation. Because Coumadin thins the blood and must be monitored very closely, Bryant was told to return in two days to have her INR checked. When she returned, her INR was 1.9, a normal value with regard to the possible thinning of her blood. She was told to return again in a week to have her INR rechecked.

Bryant returned as instructed. However, although other lab tests were performed for her, the INR was not performed. Bryant did not have another INR performed until about two and a half months later.

When Bryant came in on 11-14-05, Dr. Gillis's practice was temporarily being covered by Dr. George Evans, one of his partners. Dr. Evans was also supervising Carroll Davis, a certified registered nurse practitioner, in Dr. Gillis's absence. Bryant complained of bruising and dizziness and was seen by Nurse Davis. An INR was drawn that revealed an INR of 34.2.

Nurse Davis instructed Bryant to hold the Coumadin for four days and recheck on the fifth day. Nurse Davis did not show the critical INR value to the covering physician. Bryant returned the next day with a new complaint of nausea and vomiting. She was also still

bleeding from the site where her blood had been drawn the day before. Nurse Davis drew another INR, which this time was 44.8.

When Nurse Davis showed the latest INR value to Dr. Evans, he instructed her to refer Bryant to a hematologist. An appointment was made with the hematologist the next day, but Bryant was found unresponsive by a friend beforehand. She was taken by ambulance to Shoals ER, where a CT scan showed a subdural hematoma with a midline shift. She died on 11-17-05.

Bryant's estate filed suit against Dr. Gillis and Nurse Davis and criticized the care they had given Bryant. The estate later amended its complaint to add Dr. Evans as a co-defendant.

Dr. Evans successfully argued he had been added after the expiration of the statute of limitations, and he was dismissed from the action. The estate and Nurse Davis settled before trial. Dr. Gillis continued to defend and deny wrongdoing. His identified experts included Dr. Gerald Machen, Family Medicine, Cullman and Dr. Drake Lavender, Family Medicine, Gordo.

For three days, the estate presented its case to a jury in Tuscumbia. On the third day and at the close of the estate's case in chief, the court granted Dr. Gillis' motion for judgment as a matter of law on the basis of efficient intervening cause.

In entering its ruling, the court stated Bryant's death was a "crying shame" and its sympathies were entirely with Bryant's family, but there was simply no evidence that Dr. Gillis was to blame. Other healthcare practitioners on 11-14 and 11-15 had provided inadequate care to Bryant, and their actions constituted an intervening cause.

Although Dr. Gillis was pleased by the disposition of the case in his favor, the estate was not. It appealed. The appellate court agreed with the estate that the trial court had erred in granting a judgment as a matter of law, and it reversed and remanded for a new trial.

According to the appellate court, the alleged superseding intervening negligence of Dr. Evans and Nurse Davis did not necessary absolve Dr. Gillis of liability. Dr. Gillis might still

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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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Auto Negligence - A driver was injured when two motor vehicles collided in Leeds

Scott v. Whitfield, 11-901772

Plaintiff: John B. Brunson and Shay N. Click, *Massey Stotser & Nichols, P.C.*, Birmingham

Defense: Mark C. Peterson, *Wade S. Anderson & Assocs.*, Birmingham

Verdict: Defense verdict

Circuit: **Jefferson**, 6-12-12

Judge: Robert S. Vance

On 2-1-10, Donald Scott was driving along Weaver Avenue in Leeds when a vehicle driven by Patsy Whitfield collided with him. The record does not provide further details about the accident.

Scott was injured as a result of the

collision. He incurred medical expenses of \$7,146 and lost wages of \$2,500.

Scott filed suit against Whitfield and blamed her for causing the collision. His theories included negligence and wantonness. Whitfield defended and minimized the damages claimed by Scott.

A Birmingham jury listened to the parties' arguments before returning a defense verdict. The court entered a consistent judgment.

Underinsured Motorist - A collision in Mobile County left a driver with low back injuries

James v. State Farm Mut. Auto. Ins. Co., 10-902557

Plaintiff: Edward P. Rowan, Mobile
Defense: James W. Killion, *Killion & Assocs., P.C.*, Mobile

Verdict: \$200,000 for plaintiff

Circuit: **Mobile**, 5-16-12

Judge: John R. Lockett

On 11-18-08, the motor vehicles of Joseph Shields and Sheila James collided in Mobile County. The record does not provide details about the nature of the collision.

James suffered injuries to her low back. The record does not provide further details about her injuries or the

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