

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.

Medical Negligence - An elderly man underwent a laparoscopic hernia repair at the hands of a general surgeon; the man died of sepsis less than a month later, and his estate blamed his death on the surgeon for allegedly nicking the man's small bowel and thereby causing the development of a 6 centimeter fistula

Estate of Barber v. Kirkland, 17-902921

Plaintiff: Ralph J. Bolen, Chelsea

Defense: R. Todd Huntley and

Michael T. Scivley, *Starnes Davis*

Florie, LLP., Birmingham

Verdict: Defense verdict

Circuit: **Jefferson**, 7-28-22

Judge: Donald E. Blankenship

On 6-25-15, Roddy Barber, then

age 70, was admitted to the

Brookwood Medical Center in

Jefferson County to undergo a

laparoscopic hernia repair surgery.

The procedure was performed by Dr.

Richard Kirkland, a general surgeon.

Within twelve hours after the surgery, Barber was experiencing excruciating pain, fever, and acute urinary retention. Further tests conducted over the next several days indicated that Barber's condition was deteriorating as he showed signs of sepsis.

On 6-28-15, just three days after the surgery, Barber went into acute respiratory failure that required intubation and mechanical ventilation. His symptoms were traced to a 6 centimeter fistula in his small bowel for which Dr. Kirkland performed a repair surgery.

Despite this intervention, Barber's condition continued to deteriorate.

On 7-1-15 he underwent surgery for suspected Fournier gangrene (i.e., a life-threatening bacterial infection).

On 7-20-15, while the nursing staff was turning Barber so as to prevent pressure sores, he went into cardiac arrest and died. An autopsy identified the cause of death as sepsis.

Barber's estate filed suit against Dr. Kirkland and Brookwood Medical Center. However, the estate later dismissed Brookwood Medical Center from the case, and the litigation proceeded thereafter solely against Dr. Kirkland.

According to the estate, Dr. Kirkland must have nicked Barber's small bowel during the initial surgery and thereby caused the fistula to develop. Furthermore, Dr. Kirkland failed to examine Barber properly to after the surgery to determine the cause of the abdominal pain and failed to find the fistula.

The estate was also critical of Dr. Kirkland for allowing a four-day delay in the surgical repair of the fistula and for delaying ventilator assistance despite deterioration in Barber's blood gasses. Finally, the estate claimed Dr. Kirkland failed to address Barber's need for further surgery over the Fourth of July holiday.

The parties offered testimony from a number of experts in this case. The estate's identified experts included Dr. Alan Kravitz, Surgery, Rockville, MD. The estate's list of itemized damages totaled \$9,750,000.

Dr. Kirkland defended the case and denied having committed any breach of the standard of care. According to him, his treatment of Barber was appropriate and prompt in all respects. The identified