

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

July, 2009

Statewide Jury Verdict Coverage

10 IJVR 7

Unbiased and Independently Researched Jury Verdict Results

In This Issue

Marion County

Medical Negligence - \$5,000,000	p. 1
Assault - \$2,100	p. 2
Tree Trimming Neg. - Defense verdict	p. 5
Underinsured Motorist - \$102,365	p. 12

Lake County

Auto Negligence - \$30,000	p. 2
Auto Negligence - \$10,000	p. 3
Auto Negligence - \$4,796	p. 5
Auto Negligence - \$39,663	p. 6
Medical Negligence - \$181,020	p. 8
Medical Negligence - Defense verdict	p. 10

Monroe County

Defamation - \$390,000	p. 3
Fraud - Defense verdict	p. 9

Federal Court - Terre Haute

Sexual Harassment - Defense verdict	p. 4
-------------------------------------	------

Boone County

Medical Negligence - \$875,000	p. 6
--------------------------------	------

Federal Court - Hammond

First Amendment - Directed verdict	p. 7
------------------------------------	------

Vanderburgh County

Auto Negligence - \$10,000	p. 7
----------------------------	------

Morgan County

Auto Negligence - Defense verdict	p. 8
-----------------------------------	------

Porter County

Auto Negligence - \$62,200	p. 9
----------------------------	------

St. Joseph County

Auto Negligence - \$760,000	p. 10
-----------------------------	-------

Floyd County

Medical Negligence - Defense verdict	p. 10
--------------------------------------	-------

Clark County

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

Elkhart County

Auto Negligence - \$20,000	p. 12
----------------------------	-------

Shelby County

Auto Negligence - \$2,700	p. 13
---------------------------	-------

Harrison County

Auto Negligence - Defense verdict	p. 13
-----------------------------------	-------

Medical Negligence - A teenager diagnosed with a ruptured diaphragm and abdominal hernia underwent six repair surgeries and lost one third of her stomach; she criticized her medical team for initially missing the correct diagnosis and thereby requiring her to undergo more extensive treatment than would otherwise have been necessary

Smith v. Clarian Health Partners, et al., 49D02-0603-CT-11551

Plaintiff: Steven E. Willsey and David B. Wilson, *Willsey Law Office*, Indianapolis

Defense: Kelly J. Pitcher, *Ice Miller, LLP.*, Indianapolis, for Clarian and Methodist; Daniel R. Fagan, *Bingham McHale, LLP.*, Indianapolis, for Radiologic Specialists and Gilmore

Verdict: \$5,000,000 for plaintiff
County: **Marion**, Superior
Court: J. Oldham (Commissioner), 6-12-09

On 7-9-00, Roxanna Smith, then age 18 and a resident of Mooresville, found herself suffering abdominal pain after playing softball. She went to the ER at Methodist Hospital in Indianapolis, where she described her pain as being like a pulled muscle on her left side under her rib cage. She also said it hurt to breathe. She had no known injury, and the pain had been a sudden onset.

Smith underwent a chest x-ray and an abdominal CT scan. Dr. Richard Gilmore, a radiologist with Radiologic Specialists of Indiana, read the CT scan and found it to be normal with an elevated left hemi diaphragm.

The x-ray showed no left hemi diaphragm visible and a sub pleural colon loop on the left, with a possible herniation into the diaphragm. Smith was treated with ibuprofen and IV morphine. She was diagnosed with a urinary tract infection and muscle

strain, discharged, prescribed pain medications, and told to follow up with her family doctor.

Two days later, on 7-11-00, Smith followed up with her family doctor, Dr. Ogren, who told her to continue treatment for her urinary tract infection. However, the next day paramedics brought Smith to the ER at Johnson Memorial Hospital with a complaint of left sided pain.

Tests were done, and Smith was again told to follow up with her doctor. On that same day, Dr. Ogren ordered a pelvic ultrasound, which revealed a small amount of free fluid in Smith's pelvis. Everything else was normal.

On 7-23-00, Smith went once again to the ER at Methodist. This time she had crescendo onset epigastric pain radiating to her back. She was diagnosed with abdominal pain and told to avoid spicy food. She was also again directed to follow up with her doctor.

On 7-25-00, Smith went to Methodist for a gynecological visit. During that visit she complained of abdominal pain. Her pelvic exam, however, was normal. She was scheduled for an upper GI x-ray and discharged.

Later that same day, paramedics were called to Smith's home because she was coughing up blood and was found unconscious on the couch. The paramedics took her to Methodist, where she was found to have her stomach and spleen incarcerated in her chest due to a ruptured diaphragm.

Smith underwent six surgeries, as a result of which she lost one-third of her stomach. Despite the surgeries, she has been forced to limit her food intake to avoid vomiting, and she has ceased working. The record does not reveal the amount of her medical expenses.

Smith first presented the matter to a

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