

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

September 2023

Statewide Jury Verdict Coverage

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Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

Legal Negligence - After doctor who had become disabled from his career as an orthopedic surgeon was denied disability benefits by his insurer, MetLife, he hired an Indianapolis attorney to sue the insurer on his behalf; during the representation the attorney allegedly gave the doctor bad advice that led to the cancellation of the insurance policy and thereby deprived the doctor of benefits for some twenty years that he claims he would have otherwise received

Mathis v. Saint, et al.,

49D13-2112-PL-42714

Plaintiff: Robert J. Nice, , John G. Shubat, and Ashley N. Dayhuff, *The Nice Law Firm, LLP.*, Indianapolis
Defense: Aaron C. Medley and Nicholas W. Levi, *Kightlinger & Gray, LLP.*, Indianapolis

Verdict: \$130,000 for plaintiff

County: **Marion**, Superior

Court: J. Joven, 8-3-23

Dr. Chad Mathis graduated from the Indiana University School of Medicine in 1997. Thereafter he became a board certified orthopedic surgeon and practiced in Birmingham, Alabama. In 2011 he founded and became the managing partner of the Alabama Bone & Joint Clinic.

In 2009, however, Dr. Mathis was experiencing some issues with his cervical spine. He underwent a cervical discectomy and fusion on 7-27-09. Dr. Mathis returned to work following this surgery, but his cervical spine issues eventually returned and in March of 2017

rendered him unable to do his work as a surgeon.

Dr. Mathis underwent a second cervical surgery on 6-28-17. Approximately two months later in August of that year he returned to work. However, he found he was unable to work more than 80% of the time normally required.

By February of 2018, Dr. Mathis was unable to do his work as a surgeon at all, and his personal physician determined him to be permanently and totally disabled. At that point, Dr. Mathis was forced to end his career as a surgeon and instead went to work for a company called Smith and Nephew, a manufacturer of orthopedic devices.

Dr. Mathis had a disability insurance policy with MetLife. He initiated a claim under the policy on 3-28-17 and submitted his claim on 4-5-17. MetLife paid Dr. Mathis disability benefits under the policy for the time he was not working before and after the second surgery. However, the company denied the claim for all periods after 8-21-17.

In February of 2018, Dr. Mathis hired attorney Robert Saint with the Indianapolis firm of Emswiller, Williams, Noland & Clarke, LLC., to represent him in a lawsuit relating to the denied claim. Attorney Saint filed the suit in the U.S. District Court for the Southern District of Indiana – Indianapolis Division under cause number 1:18-cv-01893.

Part of the MetLife claims

The parties later agreed to reduce the judgment to the \$100,000 policy limits, minus a \$1,200 advance that State Farm had paid on 9-15-17, plus costs. The parties also agreed that inasmuch as the verdict far exceeded the policy limits combined with the claimed medical expenses, the award was not duplicative of those expenses and so State Farm would not assert a medpay lien. The reduced judgment of \$99,263 has been satisfied.

Case Documents:

[Jury Verdict](#)

[Final Judgment](#)

Premises Liability - An elderly man attending an auction of a home fell down the open entrance to the home's cellar and suffered multiple fractures; plaintiff blamed the incident on the auction house for leaving the cellar door open

Benefiel v. Jackson Auction and Real Estate Company, 48C04-1804-PL-54

Plaintiff: Ronald S. Todd, *Ronald S. Todd, P.C.*, Noblesville

Defense: Josef Musser, *Spitzer Herriman Stephenson Holderead Connor & Persinger, LLP.*, Marion

Verdict: Defense verdict on liability

County: **Madison**, Circuit

Court: J. Dudley, 4-25-23

In 2016, George Herr was the owner of a home located at 612 Nursery Road in Anderson. Herr was diagnosed with Parkinson's Disease and decided to sell his home and move to Florida. In the "mud room" located at the rear of the home was a rectangular opening leading to the cellar. The opening had a wooden cover.

On 11-8-16 Herr hired the Jackson Auction and Real Estate Company to sell his home at a public auction. Once the deal was made, Herr

emptied the house of his possessions and moved to Florida later that month on 11-23-16. At the time he left, the cover was in place over the cellar entrance.

Jackson Auction conducted the public auction approximately two months later on 1-21-17. One of those in attendance was James Benefiel, then age 86. While he was at the auction Benefiel walked around to the rear, entered the mud room, and stood looking outside.

Benefiel did not notice that Jackson Auction had opened the entrance to the cellar. At some point another auction attendee walked toward Benefiel's position through the hallway. Benefiel stepped to one side to make room for this person to pass. In doing so, Benefiel fell into the open cellar entrance.

Benefiel fell down the stairs and landed at the bottom of the cellar. He was unable to get up and yelled for help until an ambulance came. He was taken to the ER at St. Vincent's Hospital in Anderson where he was admitted and kept overnight.

Benefiel was diagnosed with a fractured left humerus, a fractured left wrist, a cut to his scalp, shoulder pain, and an acute head/facial injury. He underwent surgery for the fractures that included an open reduction and internal fixation. The record does not reveal the amount of his medical expenses.

Prior to this incident, Benefiel had lived independently. Now, however, at the age of 92 he requires assistance with housekeeping and other common chores. As a result, he has moved into an assisted living facility. He also complains of ongoing pain.

Benefiel filed suit against both Herr and the Jackson Auction and

Real Estate Company. He blamed them for allowing the open cellar hazard to exist and for failing to warn him of the danger. His identified experts included Dr. Robert Gregori, Physical Medicine, Indianapolis; Benjamin Hosinski, Civil Engineering, Fishers; and Jessica Ellis, Forensic Engineering, Fishers.

The court granted summary judgment in favor of Herr and dismissed him from the case. The litigation proceeded thereafter solely against the Jackson Auction and Real Estate Company. The auction house defended the case and implicated Benefiel's fault for the incident. Defendant also accused Benefiel of failing to mitigate his damages.

The case was tried for two days in Anderson. Unfortunately, at the time the IJVR reviewed the record, it contained neither the verdict form nor the judgment. However, it has been learned from other sources that the verdict was for the Jackson Auction and Real Estate Company, and the court entered a defense judgment.