

Kentucky Trial Court Review

July 2015

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Verdicts

Jefferson County

Auto Negligence - A bicyclist was struck by an oncoming police officer in her cruiser who was preparing to conduct a *Terry* stop - \$40,136 p. 6

Auto Negligence - The plaintiff linked a multi-level disc injury to a minor rear-ender – the jury valued the plaintiff’s pain and suffering at the odd number of \$3,592 - \$4,592 p. 9

Medical Negligence - In treating a plaintiff with respiratory distress, a hospital was blamed for using restraints that caused a wound to her wrist - Defense p. 10

Breach of Burial Contract - The plaintiff was buried in the wrong burial tract, leading to her being dug up and reinterred in the proper location - Defense p. 11

Fayette County

Medical Negligence - A teenage girl reported to the ER with hip pain after a soccer game – an orthopedist suspected a strain injury – days later (and after a positive staph blood report was missed) the girl was dead of MRSA – her estate (representing her parents) blamed the orthopedist and a PA who purportedly failed to transmit the blood report - Defense p. 1

McCreary County

Haunted House Negligence - The plaintiff (who was there waiting on her firefighter husband) fell on dark stairs at a volunteer fire department haunted house and sustained a significant arm fracture – the jury engaged in unusual fact-finding and concluded that the plaintiff was not an invitee and having so found, that the fire department had not violated its duties to the plaintiff as a licensee - Defense p. 3

Federal Court - Louisville

Employment Retaliation - The plaintiff alleged in a first lawsuit that his lay-off represented age discrimination – while that case was pending (he would lose it at a first jury trial in 2014), he applied again for a position – when he wasn’t hired, he filed a new lawsuit (this one) alleging he was not rehired because of the prior age discrimination lawsuit – at the second trial alleging retaliation the plaintiff prevailed and took \$66,000 for emotional distress - \$66,000 p. 5

Franklin County

Road Crew Negligence - A motorcyclist blamed his crash on a road crew that was doing tree removal work for failing to place proper signage to warn that the work was ongoing – the mowing firm defended that the standard of care was met, there being a flagger and several warning signs - Defense p. 6

Lincoln County

Auto Negligence - The plaintiff complained of soft-tissue symptoms after a rear-ender – a Stanford jury valued his pain and suffering at \$10,000 - \$33,193 p. 7

Laurel County

Employment Retaliation - A housekeeper at a Hampton Inn was fired after seeking worker’s compensation benefits - \$5,142 p. 8

Christian County

Medical Negligence - The plaintiff blamed her surgeon for an unnecessary thyroidectomy that left her with vocal cord damages – the case made a procedural trip to the Supreme Court before coming to trial - Defense p. 8

Federal Court - Bowling Green

Civil Rights - A deputy sheriff roughly arrested the plaintiff for drunk driving – the plaintiff (whose truck was in a ditch) denied he was driving and thus the arrest was improper as well as presenting an excessive force claim - Defense p. 9

Madison County

Premises Liability/Settlement - The plaintiff suffered a thumb injury at Wal-Mart that she linked to an improperly packaged knife – this case turned on whether she entered a \$500 settlement before filing lawsuit – the jury answered that she had and thus did not reach a negligence jury instruction - Defense p. 10

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Premises Liability - The plaintiff, who was wearing stylish five-inch stiletto heels when she tripped on a chipped hospital sidewalk and sustained an ankle injury - Defense p. 6

Bus Negligence - The plaintiff, a bus passenger, suffered injuries when the bus pulled from an intersection (the lights were out and it was treated as a four-way stop) into the path of an oncoming car - Defense p. 9

Auto Negligence - The plaintiff complained of a shoulder injury after a right of way crash – the defense noted there were no shoulder complaints until thirteen days after the crash – a threshold verdict was returned - Defense p. 10

Franklin County

Underinsured Motorist - A teen plaintiff complained of wide-ranging soft-tissue symptoms after a rear-end crash – a first Frankfort jury awarded medical bills and nothing more – the trial judge concluded the verdict was inadequate and ordered a new trial – at that second trial the plaintiff took a total of \$56,087 (including \$33,450 for pain and suffering) that exceeded the \$25,000 UIM limits - \$56,087 p. 1

Meade County

PIP Benefits - The plaintiff sought PIP benefits after being involved in a one-car accident – the insurer disputed the claim and relied on a records review expert, that expert being excluded from trial when he communicated with jurors at trial – the court then directed a verdict for the plaintiff on liability and awarded the PIP expenses of \$7,737 (plus interest of 18% and attorney fees) - Directed verdict for plaintiff p. 3

Laurel County

Premises Liability - The plaintiff (the daughter-in-law of the defendants) was injured when part of a recently tornado-damaged barn collapsed and struck her – in this lawsuit the daughter-in-law blamed her in-laws for the accident - Defense p. 4

Kenton County

Auto Negligence - In this unusual case, an attorney on a moped tried to pass the defendant who turning into a parking lot – realizing the defendant was turning, the attorney hit the brakes and lost control – in this lawsuit the attorney blamed the defendant for failing to keep a proper look-out *behind* her as she made the turn - Defense p. 4

Floyd County

Auto Negligence - In a case involving a minor rear-end collision (the defendant had fallen asleep) where there was no injury reported at the scene, a Prestonsburg jury rejected the claim on causation - Defense p. 6

Grant County

Auto Negligence - The defendant's brakes failed and she rear-ended the plaintiff who was driving a pick-up pulling a trailer – the plaintiff (with a history of two prior spine surgeries) didn't treat for five days, thereafter complaining of chronic neck pain - Threshold p. 7

Christian County

Government - The plaintiff and her two adult daughters complained of soft-tissue symptoms after a right of way collision - \$30,000 p. 7

Madison County

Premises Liability - The plaintiff slipped on a sizing marker on the floor and sustained a shoulder injury - Defense p. 8

McCracken County

FELA - The plaintiff linked the development of asbestosis to his railroad employment in the 1940's stripping locomotives - Defense p. 8

Graves County

Medical Negligence - The plaintiff blamed her admitting family doctor and a gastroenterologist who consulted for failing to timely diagnosis an emerging cardiac event - Defense p. 9

Rockcastle County

Uninsured Motorist - In a significant head-on crash, the jury awarded only future medical bills - \$15,000 p. 10

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Government Negligence - Following the Hurricane Ike windstorm in September of 2008 thousands of trees were down in Louisville – three days after the storm, the plaintiff, a motorcyclist, crashed into a large tree blocking Phillips Lane and sustained a serious compound knee fracture – in this lawsuit the plaintiff blamed a city engineer and LGE (it's wires were wrapped around the tree) for failing to clear the tree from the road - Defense p. 3

Building Maintenance Negligence - The office suite of a medical doctor who exclusively performs tubal ligation reversals was flooded when a water hose burst in an adjoining suite in his building – while the doctor didn't perform surgery in his office, he alleged the flooding interrupted his business and resulted in \$3.1 million in lost profit damages - Defense p. 6

Medical Negligence - The plaintiff bled to death at a Louisville hospital after suffering a rectal injury during a colonoscopy – in this lawsuit (after settling with the attending surgeon) plaintiff's estate blamed hospital nurses for failing to monitor, assess and intervene to prevent his demise - Defense p. 7

Auto Negligence - The plaintiff complained of soft-tissue symptoms after a right-of-way collision – the plaintiff's only claimed element of damages were for pain and suffering - \$21,000 p. 11

Madison County

Auto Negligence - A cement truck crashed head-on into the plaintiff, the crash leaving him with a shattered C-6 disc – the plaintiff wore a halo for three months, the disc fusing on its own – a Richmond jury awarded the plaintiff \$300,000 for pain and suffering - \$405,225 p. 1

Medical Negligence - A radiologist was blamed for misreading an MRA scan and identifying significant arterial stenosis – in reliance on that read the plaintiff underwent an invasive cardiac surgery that revealed there was no arterial blockage – the plaintiff then alleged the unnecessary surgery was caused by the radiology misread – a Richmond jury agreed the doctor violated the standard of care but concluded that error had caused no injury - Defense p. 9

Laurel County

Medical Negligence - The plaintiff's suffered a collapsed lung following a pacemaker placement – the plaintiff elected not to call an expert and presented a res ipsa loquitur case predicated on his cardiologist's purported post-surgical admission, "I'm sorry, it's my fault." - Defense p. 4

Mercer County

Legal Negligence - A lawyer was blamed for botching a title examination – the court concluded as a matter of law that the lawyer missed a 50-foot public right of way leaving the jury to consider damages only - \$42,602 p. 5

Daviess County

Premises Liability - A patron at a beauty shop tripped and broke her ankle as she sat down in the salon chair – in this lawsuit she blamed her stylist for negligence in seating her in the chair - Defense p. 7

Pulaski County

Abuse of Process - A lawyer balked at paying for an expensive repair on his Porsche and had the owner of a repair shop arrested for failing to promptly return the car – the repair man sued the attorney and alleged abuse of process – the trial court granted summary judgment, the repair man taking an appeal all the way to the Kentucky Supreme Court – it reversed and this trial was conducted nearly ten years later, the plaintiff winning and taking \$7,500 in compensatory damages but nothing for punitives - Defense p. 8

Casey County

Medical Negligence - The plaintiff made a long causal link between the failure to timely administer Zofran (an anti-nausea drug) and a code event that was related to vomiting – the administration of epinephrine during the code led to a compartment syndrome complication and ultimately the amputation of plaintiff's arm below the elbow - Defense p. 10