

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

October 2012

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Civil Jury Verdicts

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Premises Liability - The plaintiff tripped on a curb in a Target parking lot and sustained a broken hip – a federal jury awarded her medicals of \$50,936 but nothing for pain and suffering – over the plaintiff's objection the trial judge sent the jury to deliberate – in the second verdict the plaintiff took \$5,000 for pain and suffering – the plaintiff has since moved for a new trial

Edwards v. Target, 3:11-138

Plaintiff: Joseph H. Mattingly, III and Kaelin G. Reed, *Mattingly Nally-Martin & Fowler*, Lebanon and Dallas E. George, Lebanon

Defense: Richard P. Schiller and Noel R. Halpin, *Schiller Osbourn Barnes & Maloney*, Louisville

Verdict: \$50,936 for plaintiff less 90% comparative fault (1st verdict)

\$55,936 for plaintiff less 90% comparative fault (2nd verdict)

Federal: **Louisville**, J. Russell, 9-18-12

Mary Edwards, then age 63, shopped on 2-27-10 at the Target retail store in Elizabethtown. She had traveled with her husband from Greensburg. They parked at the side of the store. Having finished her shopping, Edwards returned to the parking lot to go to her car.

At this Target location there were concrete parking bumpers in front of the parking spots. However in an odd alignment, the bumpers were not directly in front of the parking spots – they straddled the parking spots and created a partial obstacle.

Edwards didn't appreciate that obstacle and as she walked to her car, she tripped and fell. Landing hard on the asphalt, she sustained a broken hip. There was undisputed evidence from

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Edwards herself and witnesses to the fall that it was a painful event. She underwent a surgical repair and remained in the hospital for 14 days. Edwards was homebound for 6 weeks thereafter.

The incurred medical bills were \$50,936. She claimed \$3,000 for future care. Her lost wages totaled \$4,200, the plaintiff seeking \$62,000 for impairment. Pain and suffering was limited in the instructions to \$450,000. Her husband also presented a consortium claim.

In this lawsuit (removed to federal court by Target), Edwards alleged the

premises were not reasonably safe. She focused on the straddle design of the parking bumpers. The danger was compounded as the parking spots were next to the building – the space between the parking bumpers and the store essentially created a pedestrian pathway, pedestrians then having to dangerously navigate the straddled parking bumpers.

Target's defense was elegantly simple. The parking bumpers had a very specific purpose – it was to prevent vehicles from striking the building. Edwards simply failed to appreciate the open and obvious

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