

# Kentucky Trial Court Review

November 2019

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### Verdicts

#### Jefferson County

Underinsured Motorist - A well-known Louisville DJ (Ryan Coxx) complained of a T8-9 disc injury (he had a surgical repair after self-referring to a Cincinnati physician) that he linked to a right-of-way crash – the DJ settled with the tortfeasor and sought UIM benefits above that sum up to a \$500,000 limit – the verdict for the DJ represented \$150,000 for pain and suffering (the medicals of \$36,000 were paid by PIP) less comparative fault and the underlying limits representing a net award of \$35,000 - \$186,000 p. 1

Auto Negligence - The defendant was at a red light in downtown Louisville when he backed up to allow a tractor-trailer to make a wide turn – the plaintiff, right behind, alleged the defendant backed him and left her with a rotator cuff tear – the defendant for his part denied there was any impact at all - Defense verdict p.

#### Bourbon County

Premises Liability - As the plaintiff exited a jewelry store, she stumbled over a defect out front that had been created by a water leak – while the landlord fixed the leak some 30 months earlier, the landlord was unable to find a contractor to fix the defect – the plaintiff suffered a complex wrist fracture in the fall - \$225,925 p. 3

#### Federal Court - Louisville

Truck Negligence - A trucker blew through a stop sign and in a very hard hit, it pushed the plaintiff's small sedan some 70 feet– the collision left the plaintiff with a concussion, headaches and ongoing tinnitus – a federal jury valued the plaintiff's pain and suffering at \$646,000 - \$646,000 p. 4

#### Madison County

Medical Negligence - The plaintiff blamed an ER doctor and her Ob-Gyn for missed ectopic pregnancy diagnosis – the condition was not caught until her fallopian tube had exploded and she underwent an emergency repair surgery – the plaintiff, then age 33 and wanting more children, is now sterile – the doctors defended that they acted reasonably based on the plaintiff's presentation and she did not have the classic indicia of an ectopic pregnancy - Defense verdict p. 5

#### Hopkins County

Auto Negligence - A teenage girl complained of a disc injury and may require a future surgery after a right-of-way collision – a Madisonville jury awarded the plaintiffs specials of \$76,539 – the judge considered the verdict inconsistent and contrary to law, he sent the jury to deliberate a second time – the jury returned a second verdict and awarded the plaintiff \$15,000 for pain and suffering - \$76,539 (1<sup>st</sup>) and \$91,539 (2<sup>nd</sup>) p. 7

#### Federal Court - Frankfort

Breach of Contract - This case concerned a contract to paint plastic car parts, the plaintiff (the painting company) alleging the purchaser (the manufacturer of the parts) breached the supply agreement – a defense verdict was returned in 2017 and the plaintiff appealed and cited a proof burden instruction – the case was reversed on this issue and at a second trial two years later (with the proof burden reversed), a defense verdict was again returned - Defense verdict p. 9

#### Gallatin County

Auto Negligence - In a strange incident, the defendant was blamed for running over the plaintiff in his car (resulting in a broken leg) after the pair had scuffled at a city park - Defense verdict p. 10

#### Notable Indiana Verdict

##### Floyd Superior Court (New Albany)

Medical Negligence - During a surgical procedure to remove a cyst from his neck, plaintiff suffered a spinal accessory nerve injury that left him with a shoulder droop and constant pain; plaintiff criticized his surgeon for failing to inform him of the risks of the surgery and for performing the surgery incorrectly - \$1,250,000 p. 10