

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

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Comprehensive Statewide Jury Verdict Coverage

Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts including circuit, division, presiding judge, parties, case number, attorneys and results.

Car Repair Negligence - Just days after picking up a car from a major engine repair, the vehicle caught on fire and its owner was engulfed in flames while pulled from the burning wreckage, he died three days later

Mulligan v. Don s Auto Clinic, 06-3827

Plaintiff: H. Philip Grossman,
Grossman & Moore, Louisville

Defense: John R. Martin, Jr., *Landrum & Shouse*, Lexington

Verdict: \$3,255,899 for plaintiff

Circuit: **Jefferson**, J. McDonald,
3-16-08

Bernard Mulligan, age 67 and a butcher at a Portland grocery, was having trouble with his 1995 Buick Riviera. The car kept overheating. It was repaired in September of 2004 by Don s Auto Clinic the repair shop is operated by Samuel Barrett.

Despite this first repair, the problems persisted. Mulligan returned the car to Don s Auto Clinic in mid-October. On this second repair, the repair shop concluded that wire insulation had melted. It recommended the engine be replaced with a rebuilt one. Mulligan consented and the work was done. He picked up his repaired Riviera on 11-4-04.

Just two days later, Mulligan was driving on the Greenbelt Highway. It is not exactly clear what happened next. What is known is that Mulligan pulled to the side of the road and the Riviera caught fire. As it became engulfed in flames and for unknown reasons, Mulligan was unable to exit. [This may have been from carbon monoxide or from Mulligan s diabetic condition.] A passerby pulled him from the fire.

Mulligan sustained catastrophic burns to 45% of his body, including to his head, face, neck, chest, hands, legs and airway. As he was taken by EMS to the hospital, Mulligan was conscious and

able to respond to commands. However he did not receive any pain medication until he arrived at the hospital this window of excruciating pain was estimated at 60 minutes. Thereafter Mulligan was medicated for his pain, but his wounds proved fatal. He died three days later.

His estate sued Don s Auto Clinic and alleged a negligent repair of the Riviera caused the fire. An expert in fire origin, William Haggerty, Escondido, CA, linked the fire to fluid that leaked onto the manifold. It was Haggerty s opinion that the vehicle was not properly repaired and inspected. If the estate prevailed, it sought past medicals, the funeral bill, destruction and pain and suffering.

Don s Auto Clinic defended the case and relied on Van Kirk, Mechanic, Lexington. Kirk concluded the fire started in the cooling system and importantly, on the other side of the vehicle from where the engine repair was made. Thus it was unrelated to the work done on the car by the repair shop. Plaintiff s own care in failing to exit the vehicle was also raised.

A Louisville jury resolved fault for Mulligan, finding Don s Auto Clinic solely to blame. Then to damages, the estate took medicals of \$102,019, plus the funeral expense of \$3,880. Destruction was \$150,000, the jury adding \$3,000,000 for pain and suffering. The raw verdict totaled \$3,225,899.

Police Negligence - In a devastating crash, a deputy sheriff (traveling at nearly 100 mph) crashed into a family of four the mother and daughter were killed, while the husband and son survived with serious injuries

Rose v. McCreary County Sheriff,
04-0230

Plaintiff: Tim Lavender, *Hatfield & Lavender*, Whitley City and William G. Crabtree, *Crabtree & Goforth*, London
Defense: Winter R. Huff, *Law Offices of John Prather*, Somerset

Verdict: \$5,136,690 total for Rose Family less 30% comparative fault and assessed individually as follows:

\$3,432,851 for Charles; \$1,627,031 for Axl; \$68,573 for Estate of Alice; \$8,235 for Estate of Ashley

Circuit: **McCreary**, J. Braden and
J. Gary Payne, 3-4-07

It was just after eleven in the evening on 8-21-03. Jeremy Thompson, a deputy sheriff for McCreary County, was responding to a call. Just on duty, he heard the dispatch of a depressed and suicidal woman that had a gun. The dispatch also indicated that the state police and EMS were on the scene.

Thompson headed for the scene in his 1996 Crown Victoria cruiser. He did so at high speed it was estimated at between 90 and 115 mph. Whatever the actual speed, he was going very fast in the area that was controlled by a 45 mph speed limit. He recalled his strobe light was on and his siren blaring. As Thompson headed to the scene, dispatch provided a Signal 8" indicating the situation had been handled by KSP Thompson acknowledged the signal.

At the same time, the Rose family of Whitley City was pulling from a grocery after having stopped for a drink. Alice Rose, age 28, was driving the family Hyundai. Her husband, Charles, age 33, was in the front seat. Their children, little Ashley (10) and Axl (9) were in the backseat. None were wearing seat belts.

Alice came to U.S. 27 near Williamsburg Street and saw nothing. She made a left turn. Alice did so just as Thompson was passing in his speeding

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