

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.

Auto Negligence - The plaintiff complained of a mild brain injury and a brachial plexus injury after a right of way crash with a pharmaceutical sales woman – in an odd verdict, the jury made a substantial award of future medicals and impairment, but rejected any award for incurred medicals and lost wages

Roach v. Hughes et al, 4:13-136

Plaintiff: Christopher L. Rhoads, *Rhoads & Rhoads*, Owensboro and Charles E. Moore, *Moore Malone & Safreed*, Louisville

Defense: Stockard R. Hickey, III, *Gwin Steinmetz & Baird*, Louisville

Verdict: \$998,447 for plaintiff

Court: **Owensboro**, J. McKinley, 4-5-16

Cheryl Roach, then age 40 and an assistant in a dental office, traveled on West Parrish Avenue in Owensboro on 11-7-12. An instant later, Laura Hughes (now married and known as Cassie Pigg), turned into her path. Hughes was then working in pharmaceutical sales for Warner Chilcott.

It was a moderate crash, the speeds at impact ranging from 4 to 10 mph – the airbags in Roach's vehicle did not deploy. Roach did not appear to be injured initially. She went home from the scene of the crash and posted on Facebook that she was fine. The next day she went

to an immediate care center and later to an ER.

Roach has since treated for two primary injuries, (1) a mild traumatic brain injury, and (2) a left-sided brachial plexus injury. The combination of her injuries has left her permanently disabled. The brain injury has manifested with speech issues as well as problems with short-term memory, headaches and mood disorder.

Roach's injuries were confirmed by a neuropsychiatrist, Dr. Robert Granacher, Lexington. The expert explained that while Roach's MRI and CT were normal, this is the sort of injury which is best diagnosed with neuropsychological testing and clinical analysis. In this case it was his belief the injury was permanent and related to the rotational forces of the angular collision.

Roach incurred medical bills of

\$126,474. Her future medicals and lost wages were discussed by a team of experts, Laura Lampton, Life Care Plan, Louisville, Linda Jones, Vocational Expert, Louisville and Gilbert Mathis, Engineer, Murray. Also testifying were a treating neurologist and speech pathologist. Roach could be awarded \$1,802,947 for future care. Her lost wages were \$123,391, the instructions limiting impairment to \$1,075,390.

In this lawsuit filed in Daviess Circuit Court (and later removed by the defendant), Roach blamed Hughes (and her employer vicariously) for Hughes having turned into her path. An accident expert, Rob Miller discussed how the crash occurred while a second expert, Dr. William Smock, Biomechanics, Louisville expressed opinions on the forces of the crash and the way in which they caused

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Christopher L. Rhoads

the claimed injuries. Beyond her special damages Roach could also take \$1.5 million each for both past and future pain and suffering. Her total prayer for damages in the instructions was \$6,128,202.

The defense focused on several themes. Regarding the wreck, Hughes postured that in heavy traffic and preparing to turn into a car wash, two courteous drivers “waved” her through. The collision occurred primarily because Roach made an improper pass as Hughes inched through the traffic. The defense suggested Roach was in a hurry in part because she was late to pick up her kids.

Then to the crash itself, Hughes thought it was relatively minor. It occurred at low speed and was not even sufficient enough to set off Roach’s airbags. Further buttressing the notion of an insignificant event, Roach didn’t even complain of an injury at the scene. A defense biomechanical engineer, Kathleen Rodowicz, opined that the force of the crash (at just 4 mph) was insufficient to produce an injury.

The claimed damages were also

diminished with an IME expert, Dr. David Shraberg, Neuropsychiatry, Lexington. The expert could find nothing to document a “profound” injury and expressed an opinion that there was no evidence to explain Roach’s ongoing symptoms.

The jury in this case found Hughes solely at fault for the crash. Then to damages Roach took nothing for her past medicals but \$552,947 for those in the future. Similarly her lost wages were rejected but she was awarded \$475,500 for impairment.

The jury continued and awarded Roach \$20,000 for past suffering. That in the future was rejected. The verdict totaled \$998,447 and a consistent judgment was entered by the court.

Ed. Note - While the brain injury multiplier (1998 to 2015) has been 10.487 (such that pain and suffering awards have been 10.487 times the medical bills), that analysis is thrown out the window in this case. The jury in this case made a relatively nominal award of pain and suffering (just \$20,000), but Roach wasn’t awarded a nickel of her incurred medicals. The jury’s decision to award future medicals and impairment in large numbers, but to reject incurred medicals and lost wages is very unusual.

Read from documents in *Roach v.*

Hughes:

[The Jury Verdict](#)

Medical Negligence - The plaintiff was referred to a hematologist for a consult in advance of an arthroscopic knee surgery – despite several risk factors, including a prior DVT after an earlier knee surgery, the hematologist did not recommend prophylactic anti-coagulants – following the knee surgery the plaintiff developed an embolus and suffered significant complications

Stumbo v. Vernmani, 11-806

Plaintiff: Stephen M. O’Brien, III, Harold L. Kirtley, II and B. Clark Batten, Lexington

Defense: Kenneth Williams, Jr., *Williams Hall & Latherow*, Ashland

Verdict: \$1,402,776 for plaintiff

Court: **Boyd**, J. Davis,
1-15-16

Taylor Stumbo, then age 24, was driving a dump truck for the City of Ashland’s wastewater collection department on 2-1-10. As he stepped from the truck he twisted his knee and suffered a significant injury. Seven years earlier in 2003 Stumbo had injured the same knee playing high school football. He suffered a DVT at that time that was surgically repaired.

Following the 2010 injury, Stumbo began to treat with an orthopedist, Dr. Kevin Kulwicki. Kulwicki recommended an arthroscopic repair of the knee. In advance of that surgery, Kulwicki sent Stumbo for a hematology consult with Dr. Vinay Vermani. Vermani cleared Stumbo for the surgery without a recommendation for anti-coagulants.

The surgery was performed on 7-22-10 and was without incident. Three days later on 7-25-10, Stumbo reported to the ER with swelling in his knee. An ultrasound was negative for a clot.

Stumbo then contacted Kulwicki a day later and was finally seen four days later on 7-30-10. By this time a

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