

Kentucky Trial Court Review

April 2022

Table of Contents

Verdicts

Jefferson County

Medical Negligence - The plaintiff suffered a ischemic stroke moments after a chiropractic adjustment – she blamed the chiropractor for a too aggressive adjustment, while the chiropractor defended that the plaintiff suffered a spontaneous stroke (a coincidence of sorts) that had nothing to do with the adjustment – the verdict was for the plaintiff and she took \$750,000 in pain and suffering - \$1,130,800 p. 3

Franklin County

Whistleblower Act - A student support services employee at Kentucky State University (a double-graduate, former KSU footballer and “student of the year”) was fired the same day he sent an email to HR describing that a male student had been sexually harassed by the Dean of Admissions – in this lawsuit the employee alleged both whistleblower retaliation (61.102) and ordinary KRS 344.280 retaliation – KSU defended that the plaintiff was let go solely because of disclosure of confidential student information in the email which he had also copied to the media - \$361,539 p. 1

Federal Court - Lexington

Railroad Negligence/FELA - After a train derailment in Central Kentucky, the railroad sued its own conductor and engineer for damages incurred because of the derailment – there was proof the employees had run through a “stop signal” and thereby caused the crash – the conductor and the engineer (both suffered PTSD following the incident) presented a FELA counterclaim that blamed the railroad for the derailment – the jury returned a mixed verdict, awarding the railroad \$494,909 in damages, while the plaintiffs combined award was \$3,595,245 - Mixed verdict p. 4

Carroll County

Products Liability - In a tragic accident, a Head Start school bus in Carroll County ran off the road and rolled over into a tree – two toddlers were killed in the crash and several other passengers suffered serious injuries – the plaintiffs (there were seven in all) sued the bus manufacturer and blamed the crash on a design defect in clips that connected the chassis of the bus body – the bus manufacturer defended that the bus was safely designed, the tragic outcome being a function of the significant forces of the crash – after a first trial in 2018 resulted in a defense verdict, the Court of Appeals reversed on an instruction error – at a second trial (the subject of this report) nearly four years later, a defense verdict was again returned - Defense p. 6

Montgomery County

Auto Negligence - The plaintiff suffered a broken ankle and a broken rib in a near head-on collision on a rural roadway – at a first trial in Mt. Sterling in 2019 a jury valued her pain and suffering at zero – the court thought the same jury should deliberate further (the first verdict being inadequate) and in that second verdict, the plaintiff took \$10 for her pain and suffering – a new trial was ordered and at that second trial the plaintiff took medicals of \$7,395 and \$7,500 more for her pain and suffering - \$14,894 p. 9

Federal Court - Frankfort

Employment Retaliation - Two school nurses allege they suffered retaliation (one was suspended and another was passed over for another job) after advocating for student health, particularly, the care of a diabetic student that conflicted with the views of the mother - Defense p. 9

McCracken County

Underinsured Motorist - The plaintiff complained of an ulnar injury and an umbilical hernia (both surgically repaired) among other injuries after a significant red light t-bone collision – the plaintiff settled with the tortfeasor for her \$50,000 policy limits and then sought UIM coverage from his carrier - \$153,468 p. 10

A Notable Indiana Verdict

Lawrenceburg, Indiana

Premises Liability - Plaintiff visited a private catholic high school to watch her granddaughter perform in a halftime show at a school basketball game; as plaintiff left the premises after the show, she fell on a handicap access ramp and was seriously injured - Defense verdict p. 11