

# Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

June 2013

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17 K.T.C.R. 6

*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.

**Underinsured Motorist - A retired school teacher was rear-ended as she slowed on an exit ramp in the midst of I-64 construction traffic – the collision left her with a rotator cuff injury – a Catlettsburg jury valued her pain and suffering at \$200,000**

*Porter v. Farm Bureau, 10-918*

Plaintiff: William K. Wilhoit, *Wilhoit Law Office*, Grayson

Defense: Ralph T. McDermott, Ashland

Verdict: \$276,458 for plaintiff

Court: **Boyd**, J. Davis, 4-30-13

Mary Porter, then age 62 and a retired school teacher, traveled on I-64 near Coalton on 8-25-08. It was a construction zone and the speed limit was 55 mph. Porter began to slow down as she reached an exit ramp. A moment later she was rear-ended by William Parker. It was a hard hit that resulted in significant vehicle damage.

Parker would later explain that Porter had come to a sudden stop in front of him. She would deny this. In any event, slowing on the ramp or sudden stop, there was proof that Parker was exceeding the speed limit and watching ongoing traffic on I-64 instead of traffic ahead of him on the exit ramp.

However it happened, Porter was injured in the crash. Beyond her glasses being broken and two black eyes, she reported significant

shoulder pain. She later underwent a surgical repair of her rotator cuff. Porter's treating doctor was Joseph Leith, Orthopedics, Ashland.

Porter moved first against Parker and took his \$100,000 policy limits. She also took \$10,000 more in PIP and a \$1,000 in medpay. Thus in this direct action against her UIM carrier (Farm Bureau), Porter had to exceed a \$111,000 floor of coverage. If Porter prevailed she sought her medicals of \$76,458 plus \$325,541 for pain and suffering.

The insurer defended the case and first implicated Porter's own comparative fault. It cited the tortfeasor's memory that she had suddenly stopped. Farm Bureau also diminished the claimed injury.

The court directed a verdict for Porter's medicals of \$76,458. The jury then rejected apportionment and found the tortfeasor solely at fault. Porter's pain and suffering award was \$200,000, the raw verdict totaling \$276,458. After the \$111,000 offset, a

judgment was entered for Porter in the sum of \$165,458. [That represented double the last offer from Farm Bureau – it also exceeded Porter's last demand.]

**Auto Negligence - A long-time criminal defense lawyer in Florence was rear-ended on I-75 in heavy traffic – while the lawyer declined care at the scene, he has since treated for foot pain (it snapped backwards in the crash) and whiplash – a Florence jury awarded the attorney \$40,000 for pain and suffering**

*Travis v. Gibson, 11-1708*

Plaintiff: William J. Kathman and Gregory M. Erpenbeck, *Busald Funk Zevely*, Florence

Defense: Robert B. Cetrulo, *Cetrulo Mowery & Hicks*, Edgewood

Verdict: \$87,000 for plaintiff

Court: **Boone**, Special Judge Bailey-Taylor, 5-7-13

Burr Travis, then age 67, has practiced law in Florence for many

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**June 2013**  
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 Kentucky Trial Court Review

Case Style \_\_\_\_\_

Jurisdiction \_\_\_\_\_ Case Number \_\_\_\_\_

Trial Judge \_\_\_\_\_ Date Verdict \_\_\_\_\_

Verdict \_\_\_\_\_

For plaintiff \_\_\_\_\_ (Name, City, Firm)

For defense \_\_\_\_\_ (Name, City, Firm)

Fact Summary \_\_\_\_\_

\_\_\_\_\_

Injury/Damages \_\_\_\_\_

Submitted by: \_\_\_\_\_

\_\_\_\_\_

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plaintiffs developed that if the Mountaineer had the stability control, it wouldn't have yawed and rolled.

A key expert for the plaintiffs was Murat Okcuglu, a former Ford Engineer, who opined that the additional of stability control was a simple engineering question. Why then wasn't it added? Okcuglu suggested that Ford appreciated the roll-over risk, but delayed the implementation of stability control to increase profits. This argument had buttressed a claim for punitive damages – however the trial court granted summary judgment for Ford

on this question. An accident reconstructionist for the plaintiffs was Michael McCormack.

If Hinkle's estate prevailed, it sought her funeral bill of \$6,827 and \$6,310,148 more for destruction. [Her destruction was quantified by Stan Smith, Economist.] Turner's medicals were \$231,961 and he additionally sought pain and suffering. Similarly Stafford claimed medicals of \$31,338 and her pain and suffering.

Ford defended the case and blamed the crash on driver error by Hinkle. It noted that the SUV's computer indicated that Hinkle was

traveling at 90 mph just before the crash. Then when she overcorrected on the highway, the passenger side roll-over event commenced.

Ford also responded to the stability control claim and argued its SUV was safe and met the then state-of-the-art design. Notably the manufacturer explained, even if this vehicle had been equipped with stability control, the result would have been the same. Its experts were Todd Hoover, Accident Reconstruction, Donald Tandy, Engineer, Robert Pascarella, Auto Design and Catherine Corrigan, Biomechanics.

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(Burden included) made appearances at different times in the litigation. Ledford's credibility was sometimes called into question. She had testified at one point (quite incredibly) that Goodman had paid himself some thirty million dollars in company funds to pay for personal expenditures.

This case was tried for eight days in Louisville. The jury rejected Ledford's sexual harassment, retaliation and assault claims. She took no damages.

The jury moved to Eyemart's counterclaims. It prevailed on the breach of fiduciary duty count and took damages of \$150,000. She also

prevailed on conversion and fraud, taking damages respectively of \$1.00 and \$100,000. Turning to punitive damages, the jury assessed \$640,000 more against Ledford. The verdict against her totaled \$890,001. A consistent judgment reflected the mixed verdict.

Ledford subsequently moved for a

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