

Kentucky Trial Court Review

July 2009

Table of Contents

Verdicts

Jefferson County

- Bad Faith - *A medical insurer was blamed for the delay in settling a medical negligence claim* - \$3,829,277 p. 1
- Medical Negligence - *After a bariatric surgery, the plaintiff died of a sudden embolus – his estate blamed his doctor for failing to implement prophylactic Heparin* - Zero p. 5
- Truck Negligence - *The plaintiff suffered a disc injury in a broadside crash with a lumber truck* - \$118,489 p. 7
- Premises Liability - *The plaintiff tripped on a set of back porch steps and broke her ankle* - Zero p. 7
- FELA - *Toxic exposure to cleaning solvents* - Zero p. 8
- Underinsured Motorist - *A plumber complained of low-back pain after a rear-end crash* - \$64,788 p. 8
- Auto Negligence - *A threshold verdict was returned in a case involving a red light crash* - Threshold p. 9
- Fire Negligence - *A landlord sought to recover damages to his property after a fire damaged it* - Zero p. 10
- Breach of Contract - *A design engineer sought to recover damages on an unpaid contract* - Mixed verdict p. 11

Campbell County

- Auto Negligence - *In a case of a minor soft-tissue injury, the plaintiff took \$95,000 for pain and suffering* - \$100,152 p. 4

Henderson County

- Medical Negligence - *Following a normal pregnancy, the plaintiff died of an anemia complication – she blamed her internist for mismanaging the condition* - Zero p. 4

Boyle County

- Employment Retaliation - *After reporting sexual harassment, the plaintiff was fired from her manufacturing job* - Zero p. 5

Federal Court - Covington

- Train Negligence - *Father-Son plaintiffs were killed in a crash at a dangerous train crossing* - \$291,594 p. 6

Hardin County

- Premises Liability - *The producer of a show fell backstage just as she was to pull the curtain for the big show* - Zero p. 6
- Sexual Harassment - *Three waitresses at a bar alleged they were sexually harassed by their boss* - \$55,000 p. 9

Fayette County

- Medical Negligence - *In cleaning a deep wound, a plastic surgeon was blamed for leaving behind part of the plaintiff's blue jean inside the wound* - Zero p. 7

Lincoln County

- Uninsured Motorist - *In the case of a right of way passing crash, the verdict was for the defendant* - Zero p. 8

Bourbon County

- Horse Negligence - *The plaintiff's pick-up was damaged when horses were permitted to run free* - \$4,802 p. 8
- School Bus Negligence - *In a complex procedural case involving a sideswipe bus crash, competing parties sought damages* - Mixed p. 10

Oldham County

- Auto Negligence - *While the plaintiff claimed a disc injury and called his orthopedist live, a threshold was still returned* - Threshold p. 9

Bullitt County

- Assault - *Exiting a bar, the plaintiff was attacked* - \$2,100 p. 10

Supreme Court Tort Opinions

- Underinsured Motorist - *After entering a settlement with a tortfeasor, it is not enough to satisfy Coots to write a letter and tell the insurer a Coots-settlement is proposed – the letter to the insurer must indicate the settlement has already been reached* p. 12
- Medical Negligence - *Having taken a case on discretionary review, the Supreme Court dismissed the matter with an unpublished opinion, reversing that it was not error to explore at trial that an expert witness had previous licensure problems* p. 12
- Indemnification - *While an injured party may contract (in settling with a tortfeasor) to provide indemnification for basic reparation benefits, to do so, the release must be specifically crafted* p. 12
- Discretionary Review at the Supreme Court** p. 13

Court of Appeals Published Tort Opinions

- Auto Negligence - *In a case where the plaintiff failed to advance her litigation, went through multiple attorneys and was unprepared for trial, there was no error in dismissing her case for failure to prosecute* p. 13

Verdicts Revisited

- Auto Negligence - *In a case where the defendant's brakes suddenly failed, it was no error to give the jury a sudden emergency instruction* p. 13
- Medical Battery - *In a case where there was a question as to whether the plaintiff had consented to permit a certain doctor to perform surgery, it was proper to submit a consent instruction when the doctor testified that the plaintiff specifically consented* p. 14