

# Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

August 2015

Published in Louisville, Kentucky Since 1997

19 K.T.C.R. 8

## 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.

### **Nursing Home Negligence - A nursing home was blamed for global neglect of an elderly patient – the jury found for the plaintiff on both negligence and Resident’s Rights Act counts and it assessed \$9,000,000 in punitive damages**

*Jennings v. The Terrace Nursing and Rehabilitation Center*, 10-551

Plaintiff: Corey T. Fannin and Ross F. Mann, *Wilkes & McHugh*, Lexington

Defense: Lawrence E. Forgy and John L. Forgy, *Croley Forgy Foley & Cessna*, Lexington and Calvin R. Fulkerson and David A. Trevey, *Fulkerson Kinkel & Marrs*, Lexington  
Verdict: \$18,000,000 for plaintiff  
Court: **Madison**, J. Logue, 6-25-15

The elderly Eliza Jennings, then age 89, entered The Terrace Nursing and Rehabilitation Center (it is a nursing home) in Berea in June of 2004. Jennings, the retired postmaster from Berea College, would remain at the nursing home until her death in January of 2009.

In this lawsuit prosecuted by her estate allegations of global nursing home neglect were presented against The Terrace. The estate’s experts, Loren Lipson, Geriatrics, South Pasadena, CA and Luanne Trahant, Pineville, LA, cited a litany of substandard care.

The purported mistreatment of

Jennings included evidence that she endured multiple falls, had grievous and grotesque pressure sores on her lower back, heels and thigh, skin injuries, poor hygiene, infected bone-deep ulcers and multiple urinary tract infections. Jennings, who suffered from Alzheimer’s, suffered hand contractures so severe that her fingernails dug into her hands because of a lack of range-of-motion exercises.

As the lawsuit advanced the estate presented two separate but connected theories, (1) nursing home negligence, and (2) a KRS 216 Resident’s Rights Statute violation.

*See the August issue for the full report*

### **Legal Negligence - A lawyer, who signed up the plaintiff for a medical negligence case while the plaintiff was still in the hospital, was blamed in this lawsuit for bailing out on the case just before the statute of limitations had expired – in a classic case within a case (but all tried together, both medical and legal negligence theories being presented all at once), the jury rejected the underlying medical claim and thus did not reach an interrogatory that asked if the lawyer had violated the standard of care**

*Hall v. Hammond*, 12-925

Plaintiff: R. Matthew Vital, *Vital & Vital*, Huntington, WV and D.C. Offutt, Jr., *Offutt Nord Burchett*, Huntington, WV

Defense: Michael J. Schmitt, Jeffrey M. Baldwin and David M. Runyon, *Porter Schmitt Banks & Baldwin*, Paintsville

Verdict: Defense verdict on liability

Court: **Pike**, J. Coleman, 7-16-15

This case began in 2010 when the plaintiff, Robert Hall, then age 52, treated with Dr. Sai Gutti, Pain Management, for a history of chronic back pain. The pain had become much worse after a car wreck that summer. Interestingly (and importantly to this matter), Hall was represented in the car wreck case by Pikeville attorney, Glenn Martin Hammond.

Gutti performed an epidural steroid injection under fluoroscope in Hall’s lower spine that was designed to relieve his back pain. Gutti used a 20 gauge Tuohy Schiff needle to administer the injection. Right away Hall knew something was wrong – he was in horrible pain.

Hall’s condition got worse and he was later diagnosed with an aortic puncture and related aneurysm. This led to a complex aortic bypass. The first bypass failed and Hall had to undergo another one. His recovery was grueling and complex, sepsis setting in. Hall ultimately incurred medical bills of \$984,454.

While Hall was still in the hospital, Hammond visited him. Hammond signed Hall to an attorney fee contract on 1-11-11. A secretary in Hammond’s office entered a prospective statute of limitation on the medical claim of 11-15-11.  
*See the August issue for the full report*

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#### Madison County

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