

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

August 2023

Published in Louisville, Kentucky Since 1997

27 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.

Adult Day Care Negligence - An adult woman with Down Syndrome attended a field trip as a part of her adult day care – as she exited the transit bus (unattended) she fell and struck her head, suffering a skull fracture which was linked to a brain injury and the onset of dementia – in this lawsuit the woman (she died after the suit was filed) alleged negligence by the adult day care in failing to supervise her exit from the bus

McDonald v. Community Services of Northern Kentucky, 18-441

Plaintiff: Ryan Turner, Dallas & Turner, Florence

Defense: Mark E. Hammond and Rachel D. Dearmond, O'Bryan Brown & Toner, Louisville

Verdict: Defense verdict on liability

Court: **Boone**

Judge: Richard A. Brueggemann

Date: 7-14-23

Tracey McDonald, then age 51, went on a field trip on 4-4-17 organized by Community Services of Northern Kentucky (CSNK). McDonald had Down Syndrome and was identified as having an IQ of 50 or so. McDonald had a variety of other co-morbidities including being deaf in one ear and having a seizure disorder. CSNK operates an adult day care service.

McDonald attended the CSNK field trip to Cincinnati and was transported back and forth on a transit bus. She sat in the front row. Despite being in the front row, she was among the last to get off the bus. There were several staff including on the bus and on the ground outside the bus. However none were assisting day care participants in walking off the bus. There wasn't a so-called "spotter" in place.

Against this backdrop McDonald walked off the bus. As she stepped off, McDonald didn't let go of the handrail. This caused her to twist and fall backwards. She landed on her back and struck her head. McDonald suffered a skull fracture and brain hemorrhage in the fall. In the months that followed McDonald suffered from headaches and vomiting.

There was also proof that the brain injury sustained in the fall caused

McDonald to suffer from early onset dementia and that persons with Down Syndrome are predisposed to this. Her condition continued to decline until she died three years and four months after this fall. The theory was her TBI triggered her dementia.

McDonald (through her guardian and then continuing after her death) pursued this lawsuit against CSNK. It alleged CSNK violated the adult day care standard of care by failing to properly supervise her, provide a spotter to help her off the bus and otherwise prevent her fall.

The plaintiff's liability expert was Ned Einstein, Transportation, Warwick, NY. The causation experts were Dr. Priya Chandan, Physical Medicine, Louisville and Dr. Avery Knapp, Neuroradiology, New York, NY. The only claimed damages at

*** * *The KTCR Blog*****

We launched our blog last fall and it stays current on litigation news for Kentucky lawyers. We have regular updates on verdicts, motions and opinions.

It's good stuff that you won't read about anywhere else.

The verdict from the big case . . . yesterday.

We probably published it there.

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Underinsured Motorist - Husband and wife plaintiffs were involved in a serious rear-ender while vacationing in Pittsburgh when struck by a drunk driver – the wife suffered a T-12 burst fracture and was hospitalized for several weeks, the husband’s injuries being less significant – the plaintiff settled with the tortfeasor (he had \$250,000 limits) and then sought UIM coverage from their insurer - \$150,000/Defense p. 7

Auto Negligence - The plaintiff treated for soft-tissue symptoms (they resolved in a month) after a very minor rear-ender – a Louisville jury valued the plaintiff’s pain and suffering at \$10,000 - \$18,793 p. 8

Auto Negligence - The plaintiff treated for soft-tissue symptoms two weeks after a very minor rear-ender – a Louisville jury rejected the case on liability and blamed the plaintiff for suddenly stopped – the plaintiff has indicated he will appeal as the court allowed the jury to consider liability even though the defendant had admitted fault (either in whole or in part) in his Answer to the Complaint - Defense p. 9

Breach of Contract/Tortious Interference - A physician in the last year of his family practice residency was accused of “being on something” by a patient (there was no proof he was) which set off a chain reaction of events which led to delay in finishing his residency and a mark on his medical record – he sued the residency program and alleged it breached his contract and tortiously interfered with his future employment – a Louisville jury awarded the doctor economic damages as well as \$3.5 million for his emotional suffering - \$3,736,044 p. 10

Boone County

Adult Day Care Negligence - An adult woman with Down Syndrome attended a field trip as a part of her adult day care – as she exited the transit bus (unattended) she fell and struck her head, suffering a skull fracture which was linked to a brain injury and the onset of dementia – in this lawsuit the woman (she died after the suit was filed) alleged negligence by the adult day care in failing to supervise her exit from the bus - Defense p. 1

Pike County

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Scott County

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