

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

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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.

Truck (Parking) Negligence - The plaintiff crashed into an illegally parked box truck (it was a big white box truck) and sustained broken ribs and an SI joint injury – the jury found the defendant 65% at fault (the remainder to the plaintiff) and awarded the plaintiff \$200,000 for his pain and suffering

Greeson v. All My Sons Moving,
20-2984

Plaintiff: Chauncey R. Hiestand and Joseph M. Longmeyer, *Winton & Hiestand*, Louisville

Defense: Barry A. Rudell, II, *Markesberry & Richardson*, Cincinnati, OH

Verdict: \$356,893 for plaintiff less 35% comparative fault

Court: **Jefferson**

Judge: Jennifer B. Wilcox

Date: 8-10-23

David Greeson traveled on Alliant Avenue on 2-7-20. In front of him a white box truck was parked illegally. It blocked the right lane. The truck had been parked by James Fischer who was employed by All My Sons Moving. In further setting the scene, it was 9:30 at night although the area received ambient lighting from nearby hotels.

Greeson did not appreciate that the truck was stopped. He crashed hard into it. Greeson was shaken at the

scene and was treated at the ER for several injuries. Those included multiple broken ribs (they healed on their own after eight weeks) as well as low-back pain. He then had a short treatment course of physical therapy for neck and back pain. Thereafter Greeson didn't treat for nearly two years. Instead during the Covid-era he relied on medications as prescribed by his primary care physician.

After a nearly two-year gap, Greeson began to treat for low-back pain. It has been linked to a persistent SI joint injury and cervical pain. There was proof he will need a future repair surgery all as confirmed by Dr. Michael Casnellie, Orthopedics, Louisville. Greeson's medical bills were \$56,893 and he sought \$200,000 for future care.

In this lawsuit Greeson blamed Fischer and All My Sons Moving for the crash. The theory was to implicate

the box truck for being illegally parked. The plaintiff's accident expert was Sonny Cease, Louisville. Beyond his special damages as described above, Greeson also sought \$800,000 for his pain and suffering.

All My Sons Moving defended on several fronts. The first was to describe the setting, that is, it's truck was a big white box truck that Greeson should have seen but for his inattention. The defense accident expert was Steve Grundhoefer, Ferdinand, IN. The defense also contested injury causation (focusing on the two-year treatment gap) and relied on an IME, Dr. Robert Roman, Orthopedics, Lexington.

This case was tried for four days in Louisville. The jury's verdict was mixed on fault. It was assessed 65% to All My Sons Moving and the

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Industrial Negligence - A union iron worker (working for a third-party making repairs) was killed in an industrial incident while at the Kosmos Cement facility when he was caught between a wire that suddenly tensioned and he asphyxiated – the jury awarded the estate \$25,500,000 in compensatory damages (including \$10,000,000 for the wife’s consortium and \$3,000,000 for the consortium interest for each of the decedent’s three children) and \$25,000,000 more in punitive damages - \$50,500,000 p. 5

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Medical Negligence - The plaintiff died of a post-partum infection days after giving birth – her estate blamed a variety of defendants (all settled but for an infectious disease doctor) and sought damages for the consortium interests of the plaintiff’s four minor children – the jury found for the plaintiff on liability (it assessed fault 16% to the single defendant) and awarded each of the children \$5,000,000 for their consortium interests – the raw verdict of \$20,000,000 was reduced by comparative fault in the final judgment against the defendant in the sum of \$3.2 million - \$20,000,000 p. 3

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Underinsured Motorist - The plaintiff suffered a complex knee injury in a very serious head-on collision – the collision was so serious the plaintiff was cut from his vehicle with the Jaws of Life – the plaintiff settled with the tortfeasor for her \$25,000 limits and then sought UIM coverage (up to the carrier’s \$1,000,000 limits) from his carrier – a Louisville jury deliberated just eight minutes and awarded the plaintiff \$250,000 for his pain and suffering

Leitner v. Massachusetts Bay Insurance, 19-648

Plaintiff: Cara W. Stigger and Kerstin Schuhmann, *Kaufman & Stigger*, Louisville

Defense: Bradley D. Harville, *Harville Law Offices* Louisville

Verdict: \$261,520 for plaintiff

Court: **Jefferson**

Judge: Julie Kaelin

Date: 8-15-23

Donald Leitner, then age 61, was working a part-time job for a florist on 2-6-17. He was driving a cargo van. It was a second job of sorts that Leitner did for fun after retiring from a long career with the post office. Leitner proceeded on River Road in Prospect.

At this location Amanda Bengé approached from the opposite direction. She was driving a rented Toyota sedan. Suddenly Bengé crossed the centerline and struck Leitner’s cargo van head-on. It was a serious collision and Leitner had to be extracted from the cargo van by the Harrods Creek Fire Department using the Jaws of Life. Fault was not a jury issue.

Leitner suffered several injuries in the crash. The most significant and acute one was a left patellar fracture. He also suffered a meniscal tear, a broken rib and ankle pain. Dr. Scott Kuiper, Orthopedics, Louisville, performed a surgical repair in May



The Leitner cargo van after the collision

of 2017 on Leitner’s knee.

Leitner also complained of shoulder pain that had its genesis in a cervical disc problem. He later underwent a cervical surgery in 2020. His medical bills were \$281,268.

Leitner moved first against the insurer for the rental car company. It paid its minimum \$25,000 limits on Bengé’s behalf. In this lawsuit Leitner sought UIM coverage from two insurers. The first was Massachusetts Bay Insurance which provided a \$1,000,000 policy to his employer. Leitner also presented a claim against Auto-Owners Insurance that would kick in above the Massachusetts Bay’s \$1,000,000 ceiling of coverage. Auto-Owners did not participate at trial and agreed to be bound by the verdict.

Leitner’s claimed damages at trial came in two parts. The first was his lost wages \$11,520 – he had returned to work after the surgery but ultimately quit because of pain. Leitner also sought sums for his pain and suffering. Judge Kaelin allowed Leitner to introduce his medicals (the

jury knew they were \$281,268) but did not allow them to be awarded because it would represent a double recovery.

There was an interesting pre-trial issue. Massachusetts Bay moved to exclude any recovery for the neck injury. Why? It argued issue preclusion. The insurer looked back to Leitner’s separate worker’s compensation case where an ALJ had concluded the neck injury was not related to the crash. Leitner resisted and looked to testimony from an expert, Dr. Gregory Nazar, Neurosurgery, that the shoulder pain originated in the neck and that the neck surgery and related treatment were crash-related.

Judge Kaelin ruled on the motion in a 5-5-23 order. She agreed with Massachusetts Bay that there was no evidence the neck injury was caused by the crash (this was in spite of Nazar’s testimony) and that the issue had been resolved by the worker’s compensation decision. Massachusetts Bay then defended the remaining case on the merits