

The Louisiana Jury Verdict Reporter

The Most Current and Complete Summary of Louisiana Jury Verdicts

March 2017

Statewide Jury Verdict Coverage

8 LaJVR 3

In This Issue

St. Tammany Parish

Auto Negligence - \$1,312,655 p. 1

Medical Malpractice - Defense verdict p. 5

Premises Liability - \$40,354 p. 9

Federal Court - New Orleans

UIM/Bad Faith - Defense verdict p. 2

Marine Negligence - Defense verdict p. 8

East Baton Rouge Parish

Medical Malpractice - Defense verdict p. 3

UIM - \$50,000 p. 7

Roadway Negligence - Defense verdict p. 8

Lafayette Parish

Auto Negligence/UIM - Defense verdict p. 4

Federal Court - Shreveport

Civil Rights - Defense verdict p. 7

Notable Mississippi Verdicts

Gulfport, Mississippi

Premises Liability - \$100,000 p. 9

Jackson, Mississippi

Negligent Security - \$3,108,000 p. 10

Civil Jury Verdicts

Timely coverage of civil jury verdicts in Louisiana including court, division, presiding judge, parties, case number, attorneys and results.

Auto Negligence - A drunk doctor (his BAC was .21) crashed into a vehicle driven by a woman driving her teenage children – a Covington jury imposed \$1.2 million in punitive damages against the doctor, awarding the three plaintiffs \$400,000 each – the doctor

has since challenged the award as being so large as to be unconstitutional

Johnson v. Getz, 13-10770

Plaintiff: Robert H. Matthews and

Pauline M. Warriner, *Matthews & Warriner*, New Orleans and Jean-Paul Layrisson and Krista M. Eleew, *Scandurro & Layrisson*, New Orleans
Defense: Brent E. Kinchen, *Kinchen Walker Bienvenu Bargas Reed & Helm*, Baton Rouge for Getz and USAA

W. Robert Gill, Baton Rouge for Getz
Verdict: \$469,647 for Dara
\$421,890 for Sadie
\$421,118 for Casey

Parish: **St. Tammany**
Judge: Scott Gardner
Date: 1-11-17

Dr. Lawrence Getz, age 72 and a surgeon, spent the afternoon of 4-3-12 drinking beer at the Acme Oyster House. He made his way home on the Lake Pontchartrain Expressway. Getz

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A. J. Krouse, III for the defense

collision was a minor sideswipe impact and no injury was reported at the scene. St. Pierre's fault would never be disputed.

Saacks subsequently complained of several injuries. They included persistent radiating neck pain. Dr. Lucien Miranne, Neurosurgery, later performed a repair surgery. Saacks also underwent a shoulder repair surgery that was performed by Dr. Felix Savoie. He has also complained of shortness of breath related to a diaphragm injury as well as carpal tunnel symptoms.

Saacks incurred medical bills of \$128,431. There was also proof the combination of his neck and shoulder injuries have impaired his contracting business. His special damages were discussed by Shael Wolfson, Economist and Bobby Roberts, Vocational Expert.

Saacks moved first and took St. Pierre's \$50,000 policy limits from Progressive. Above that sum, Saacks then filed this lawsuit against his insurer, Principle Underwriters Reciprocal Exchange (PURE). The PURE limits kicked in above \$50,000 – the limits were \$250,000, but Saacks also had a \$1,000,000 umbrella policy.

Saacks took a simple position in this case. All of his injuries were related to this crash and he was entitled to compensation. He further alleged an unreasonable delay by PURE resolving the claim. Thus the jury, if finding such a delay, could impose penalty damages against PURE.

The case was filed in Jefferson Parish, PURE removing the case to federal court. PURE first defended that the claim was precluded by a fraudulent statement it attributed to Saacks. It alleged that he had misrepresented a prior neck injury. The insurer also defended the merits that this wreck was too minor to have caused a compensable injury. The best evidence of this was that Saacks didn't report an injury for a week. Why was there such a delay? PURE suggested that Saacks, who had a history of being a plaintiff or defendant in some 42 different lawsuits, was exceptionally litigious and this lawsuit was a part of that trend. Saacks denied misrepresenting his claim in any way.

PURE relied on several experts in diminishing the claim. They included John Wiechel, Biomechanics, Dr. Gabriel Tender, Neurosurgery and Dr. Lance Estrada, Orthopedics. The economic damages were also diminished, PURE citing that the plaintiff's business has grown in the years since the crash. [Saacks countered he has a lifting restriction that impairs his work.]

Magistrate Michael North made a key ruling (which Judge Fallon affirmed) that affected this case. Saacks had sought to exclude proof of a 1996 conviction for bankruptcy fraud. He served 24 months in prison on that charge. It was his position the conviction was too attenuated to be

related to this trial which was about a car wreck. The plaintiff's insurer thought otherwise that dishonesty was relevant. The jury heard about the conviction.

The jury in this case first answered for the plaintiff and rejected the policy defense that he had made fraudulent statements about his claim. The jury then moved to the UIM claim. It however answered for PURE on both the neck injury and shoulder injury claims (they were answered separately) that the wreck had not caused an injury. That finding ended the deliberations and Saacks took nothing, the jury not reaching the penalty damages. A defense judgment was entered.

Medical Malpractice - Two ER doctors (who saw the plaintiff on consecutive days) were blamed for missing signs of pneumonia, the plaintiff dying four days later – the jury found one doctor violated the standard of care, but that the error had not caused the plaintiff harm – the second doctor was found not to have violated the standard of care

Gray v. Gladney et al, 624776

Plaintiff: Michael J. Ecuyer and Kathy A. Rito, *Gainsburgh Benjamin David Meunier & Warshauer*, New Orleans

Defense: Gary J. Delahoussaye and Julie Savoy, *Gachassin Law Firm*, Lafayette

Verdict: Defense verdict on liability for Gladney; Defense verdict on causation for Yorek

Parish: **East Baton Rouge**

Judge: Donald R. Johnson

Date: 2-1-17

Joshua Gray, age 22, went on 1-3-11 to the Lane Regional Medical Center in Zachary with complaints of abdominal pain. Several tests were

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