

The Louisiana Jury Verdict Reporter

The Most Current and Complete Summary of Louisiana Jury Verdicts

June 2011

Statewide Jury Verdict Coverage

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Civil Jury Verdicts

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

Medical Malpractice - An elderly plaintiff linked tardive dyskinesia (an involuntary movement disorder) to Reglan, a purportedly improperly prescribed gastric reflux medicine

Ponson v. Kluchin et al, 2008-12585

Plaintiff: Daniel J. McGlynn and Benjamin P. Mouton, *McGlynn Glisson & Mouton*, Baton Rouge

Defense: Stephen M. Pizzo and Kelly A. Dugas, *Blue Williams*, Metairie for Morrison

Craig J. Robichaux and Jocelyn R. Guidry, *Talley Anthony Hughes & Knight*, Mandeville for Kluchin

Verdict: Defense verdict on liability

Parish: **St. Tammany**

Judge: Martin E. Coady

Date: 3-4-11

The elderly Thelma Ponson, then age 85, suffered from a history of diabetic gastroparesis (reflux). She treated off and on with an internist, Ronald Kluchin, from 1995 for this condition. Beginning in 2001, Kluchin prescribed Reglan to control the reflux. It is a powerful drug that can lead to tardive dyskinesia – that is an involuntary movement disorder.

While the Reglan relieved the gastric reflux, Ponson also showed signs of fatigue and changed facial expressions. Kluchin removed the Reglan and the reflux returned. Ponson again sought the drug and Kluchin advised her of the risks associated with Reglan.

Thereafter Ponson treated with a second internist, Dr. GERALYN MORRISON starting in February of 2003 and until July of 2004. Morrison continued the Reglan. The course of Reglan lasted nearly three years. It was stopped in June of 2004 after a neurologist identified signs of tardive dyskinesia.

The condition is now much worse and Ponson complains of significant symptoms, including a loss of control of her tongue and smacking her lips. Plaintiff described her condition as a

medication induced tragedy.

In this lawsuit, Ponson alleged error by Kluchin and Morrison. First she developed that because of Reglan's dangerous propensities, it should only be used for no more than 12 weeks. Ponson was on it for three years.

The plaintiff was also critical of the defendants for missing signs of the gradual development of tardive dyskinesia – Morrison was especially singled out for not having a neurological exam conducted before the Reglan was continued. Experts for the plaintiff were Dr. Raymond Mahoubi, Internist and William Fann, Pharmacology.

Kluchin defended the case that the Reglan was effective in controlling the reflux and he closely monitored Ponson's neurological symptoms. Similarly, Morrison replied that she too closely monitored Ponson's condition and discontinued the Reglan when problems began to develop. A Medical Review Panel exonerated the defendants – key experts on that panel were Dr. Mark Wegmann, Gastroenterology and Dr. Robert Ryan.

This case was tried for a week in Covington. The verdict was for the doctors on liability that they had not violated the internal medicine standard of care and Ponson took nothing. A defense judgment followed.

Have you tried a case lately? We are traveling all over the state and communicating with court personnel, but if we know about a verdict, we'll get on it right away

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Louisiana Jury Verdict Reporter**

Case Style _____

Jurisdiction _____ Case Number _____

Trial Judge _____ Date Verdict _____

Verdict _____

For plaintiff _____ (Name, City, Firm)

For defense _____ (Name, City, Firm)

Fact Summary _____

Injury/Damages _____

Submitted by: _____

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Negligent Misrepresentation - His home destroyed by Hurricane Katrina, the plaintiff alleged his insurer misrepresented the availability of flood coverage available to him under the NFIP

Grissom v. Liberty Mutual, 1:08-590
 Plaintiff: John H. Downey, Madison and George C. Nichols, Jackson
 Defense: Keith M. Detweiler and John D. Carter, *Nielsen Law Firm*, Metairie, LA and Michael E. Whitehead, *Page Manning Peresich & McDermott*, Biloxi
 Verdict: \$212,900 for plaintiff
 Federal: **Gulfport, Mississippi**
 Judge: Louis Guirola, Jr.

Date: 3-15-11

James Grissom, a college professor, has lived in Pascagoula for many years. His home is just 500 yards from the Gulf of Mexico. It was destroyed by a four-foot storm surge when Hurricane Katrina struck in August of 2005. Grissom's insurer, Liberty Mutual, paid the \$120,000 limits to Grissom. That represented the limits of Grissom's coverage as provided by the National Flood Insurance Program (NFIP). It was undisputed that this sum was less than the value of Grissom's Katrina loss.

Grissom had renewed his policy in 2004 with Liberty. [He had enjoyed

NFIP insurance since 1977.] However at the time of the renewal, he was not told by the insurer that for a lesser premium (some \$200), he was eligible for a preferred risk program that would provide him even more coverage. [The renewal simply told him that a preferred program was available to him, but not that it cost less.] Thus while Grissom was limited by his insurance contract to \$120,000, he had missed out on a preferred \$250,000 building/\$100,000 contents NFIP policy that would have cost him less.

This litigation followed, Grissom alleging his insurer had negligently misrepresented the coverage available to

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