

The Louisiana Jury Verdict Reporter

The Most Current and Complete Summary of Louisiana Jury Verdicts

July 2012

Statewide Jury Verdict Coverage

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Civil Jury Verdicts

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Truck Negligence - The plaintiff suffered a complex hip fracture (that disabled him from working as a boilermaker) in a disputed right of way collision with a crane truck operated by a utility

Tourere v. Entergy, 43362

Plaintiff: Lewis O. Unglesby, Robert M. Marionneaux, Jr. and Barrett D. Burkart, *Unglesby & Marionneaux*, Baton Rouge

Defense: Joseph R. Ballard, Baton Rouge and Gary M. Carter, New Orleans, both of *Entergy Corporation*

Verdict: \$4,231,668 for plaintiff less 43% comparative fault

Parish: **Pointe Coupee**

Judge: Alvin Batiste

Date: 5-2-12

Casey Tourere, then age 31 and a boilermaker, traveled on False River Road (La. Hwy. 1) on 8-28-09 in New Roads. At the same time, Perry Smith was operating a crane truck for Entergy. He approached Tourere from the opposite direction.

Tourere would recall proceeding through a green light. Just as he cleared

The jury's verdict was mixed on fault. It was assessed 25% to the defendant, the remainder to Thomas. Then to damages, Thomas took medicals of \$19,000 plus \$24,000 more for in the future. This Lafayette jury rejected both lost wages, lost earning capacity and any award of general damages. The raw verdict totaled \$43,000. Several months following the trial, no judgment had been entered.

First Amendment - Three policeman for Southern University alleged they were fired in retaliation for having penned a letter to university bigwigs that criticized the sitting police chief – they cited proof the police chief later referred to them as troublemakers

Allen et al v. Southern University, 504041

Plaintiff: J. Arthur Smith, *The Smith Law Firm*, Baton Rouge and Christopher D. Shows, *Pierce & Shows*, Baton Rouge
 Defense: Linda Law Clark and Winston G. DeCuir, Jr., *DeCuir Clark & Adams*, Baton Rouge
 Verdict: Defense verdict on liability
 Parish: **East Baton Rouge**
 Judge: Todd Hernandez
 Date: 5-3-12

Maurice Allen, James Hulbert and Wilson Winfrey all worked as police officers for Southern University in Baton Rouge. They were described as senior campus officers. In the summer of 2007, the three officers penned a letter to campus bigwigs that complained about the department's police chief, Dale Flowers. The letter alleged there were problems with favoritism, morale and efficiency.

The three officers thereafter alleged that Flowers retaliated against them. That retaliation culminated with their firings (which were rubber-stamped by a trumped-up university process) in December. In this lawsuit the plaintiffs presented a First Amendment claim, Southern University firing them because of their speech. Their best proof was evidence that following the letter, Flowers referred to them as troublemakers.

Southern University denied the plaintiffs were let go because of their speech. Instead it was described that the three had not followed orders – namely, all officers were instructed that working school football games would be mandatory – the plaintiffs (along with a fourth officer) didn't show up. All four (including the one that didn't sign the letter) were all let go.

From the perspective of the university, that should have been the end of the matter – the plaintiffs didn't follow orders and were let go. The plaintiffs replied that this excuse was a pretext, each of them having a family commitment that precluded them from working the football games. They noted that in proving retaliation, the same person (Flowers) who was criticized in the letter was also the person who orchestrated the firings.

This case was tried in Baton Rouge for eight days. The jury resolved the case for the university that their speech was not a substantial and motivating factor in the decision to fire. That ended the deliberations and the plaintiffs took nothing. A defense judgment was entered. Pending are the plaintiffs' JNOV motion which has repeated their trial arguments.

Auto Negligence - The plaintiff complained of a cervical disc herniation following a right of way collision – her neurosurgeon has suggested she have a repair surgery

deValcourt v. Todd, 2010-17434

Plaintiff: Ernest E. Barrow, III, Covington
 Defense: Kevin O'Bryon & Stephanie McLaughlin, *O'Bryon & Schnabel*, New Orleans
 Verdict: \$96,300 for plaintiff
 Parish: **St. Tammany**
 Judge: Raymond S. Childress
 Date: 1-30-12

Lisa deValcourt traveled on I-12 in the right lane on 5-10-10. At the same time Christopher Todd was passing her in the left lane. Todd looked away at his radio for a moment and lost control. His car dipped onto the shoulder and then struck a bridge abutment. Todd (who was

going at some 85 mph) then spun back into the road and into deValcourt. Todd's fault for the collision would not be disputed.

DeValcourt has since treated for a cervical herniated disc and disc bulges in her lumbar spine. That care included a six month course of chiropractic care. She was later referred to a neurosurgeon, Dr. Louis Provenza, Baton Rouge, who has recommended (but not yet performed) a repair surgery on her neck.

In this lawsuit deValcourt sought damages from Todd and his insurer, Metropolitan Property and Casualty. Her husband also presented a derivative consortium claim. Todd defended the case and minimized the claimed injury. He relied in this effort on an IME, Dr. Robert Applebaum, Neurosurgery.

While the jury verdict itself is not in the record, it is learned deValcourt prevailed and took medicals of \$11,300. Those in the future were \$25,000. Her past suffering was \$15,000, deValcourt taking \$45,000 more for in the future. Her husband's consortium interest was rejected. The verdict totaled \$96,300 and a consistent judgment followed.

DeValcourt sought JNOV relief and argued the general damages of \$60,000 were extremely inadequate. She suggested additur to \$100,000. The motion was denied and the original judgment has since been satisfied.

Auto Negligence - The plaintiff complained of soft-tissue symptoms after a right of way crash

Ratliff v. Lewis, 10-2181

Plaintiff: Alfred A. Olinde, Jr. and Wesley G. Barr, *Reasonover & Olinde*, New Orleans
 Defense: Raymond P. Augustin, Jr., *Deutsch Kerrigan & Stiles*, New Orleans
 Verdict: \$41,000 for plaintiff
 Parish: **Orleans**
 Judge: Lloyd J. Medley
 Date: 5-1-12

Lashandra Ratliff, then age 31, was driving a BMW sedan on Parish Road in New Orleans on 3-14-09. She looked in her mirror briefly and then merged to the left lane. As Ratliff did so, she was struck by the oncoming John Lewis, her car

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Trial Judge _____ Date Verdict _____

Verdict _____

For plaintiff _____ (Name, City, Firm)

For defense _____ (Name, City, Firm)

Fact Summary _____

Injury/Damages _____

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Whittington took nothing. The jury had deliberated 45 minutes. A defense judgment followed.

Whittington has since moved for a new trial citing he learned post-trial that a key witness (a then-candidate for District Attorney, but now sitting) had given testimony at a candidate's hearing that suggested the sheriff was very involved in the prosecution. The plaintiff explained he just learned of the witness when following the trial, he received a DVD copy of the candidate gathering. Had he known of the appearance, the motion continued, the District Attorney (Brad Burget) would have been more

aggressively cross-examined. The sheriff defended that Whittington himself knew of the candidate forum and had alluded to it in his deposition. The motion is pending.

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