

The Louisiana Jury Verdict Reporter

The Most Current and Complete Summary of Louisiana Jury Verdicts

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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 - The plaintiff (25 weeks pregnant) was seen at the ER by an Ob-Gyn and there was proof her water broke – the plaintiff was sent home and when she returned hours later to the hospital, the baby was stillborn – the plaintiff blamed the Ob-Gyn and hospital nurses for ignoring the crisis which led to the baby's death

Harris v. Lewis et al, 646821

Plaintiff: Robert W. Hallack, *Hallack Law Office*, Baton Rouge

Defense: Janie L. Coles and Jonathan Thomas, *Mang Bourgeois & Thomas*, Baton Rouge for Lewis

Randall L. Champagne, *Watson Blanche Watson & Posner*, Baton Rouge for Women's Hospital Foundation

Verdict: Defense verdict on liability

Parish: **East Baton Rouge**

Judge: Richard "Chip" Moore

Date: 7-5-22

Ashley Harris, then age 30 and 25 weeks pregnant, came to the ER at Women's Hospital Foundation (WHF) in Baton Rouge around noon on 5-2-13. She reported a gushing of fluids from her vagina. Harris, already a mother of five, knew she was in labor. Harris was evaluated at the hospital by an Ob-Gyn, Dr. Patricia Lewis.

Lewis ran a number of tests including an ultrasound. Lewis also ran a Nitrazine test – it measures the presence of amniotic fluid. Lewis read the test result as equivocal. There would later be evidence the test was positive for amniotic fluid which is consistent with Harris' water having broke.

At the conclusion of Lewis' evaluation, she concluded that Harris had a vaginal infection known as leucorrhea. Harris was discharged four hours later and given instructions to follow with her primary Ob-Gyn several days later.

Thirty-one hours later at ten in the evening, Harris felt her baby move down as if it were ready to deliver. She tried to drive herself to the hospital but could not. She called 911 and was taken to the hospital by ambulance. By this time the baby was crowning and paramedics advised Harris not to push.

Upon her arrival at the hospital at midnight, the baby (Mar'shon) was delivered. He was stillborn. There was no amniotic fluid present.

In this lawsuit Harris sued Lewis and the hospital nurses and alleged mismanagement of Harris' initial appearance at the hospital. The theory was that her water had broken as evidenced by the gushing fluid and the positive Nitrazine test. The standard of care required that Harris be admitted to the hospital so that she could be monitored and the labor delayed.

The case was slightly nuanced as to the WHF nurses. They were blamed for failing to advocate for Harris and appreciate the risk factors for premature rupture of the membranes. The plaintiff's liability expert was Dr. James Wheeler, Ob-Gyn. If Harris prevailed the plaintiff sought Harris' loss of love and affection as well as her pain and suffering associated with the death of the son.

A Medical Review Panel issued an opinion in the case. The panel was comprised of Drs. Janifer Tropez-Martin, Veronica Gillispie and Sherri Longo. The panel concluded the defendants met the standard of care and there was no evidence of a rupture of the membranes. The panel also found that Mar'shon's death was natural and unavoidable. The defendants adopted the panel's position at trial.

The jury in this case deliberated for two hours. It had a question for the court. It requested several documents including, the EMS report, the discharge papers and the "assessment center." It's not clear from the record how Judge Moore replied.

The jury returned with a verdict and first answered for Harris that she had proven the standard of care. However the jury found as to each defendant (9-3 on WHF and 12-0 as to Lewis) that they had not violated the standard of care. That ended the deliberations and the plaintiff took nothing. At the time of this report no judgment had been entered.

Premises Liability - The plaintiff suffered injuries when a casino slot machine chair (it was not secured to its sled) tipped over – the casino denied notice of the condition, the plaintiff countering the chair was not sledged for some three hours before the plaintiff fell and numerous casino employees (including security cameras) observed the chair's condition

Thymes v. Golden Nugget, 17-4773

Plaintiff: Mark A. Delphin, *Delphin Law Offices*, Lake Charles and Arthur J. O'Keefe, Lake Charles

Defense: Kyle M. Beasley and Christopher P. Ieyoub, *Plauche Smith & Nieset*, Lake Charles

Verdict: Defense verdict on liability

Parish: **Calcasieu**

Judge: Clayton Davis

Date: 3-10-22

Janet Thymes, then age 49, traveled from Houston to Lake Charles to the Golden Nugget casino on 3-4-17. She went with a friend to see an O'Jay's concert. At the time of this visit Thymes was self-described as being healthy, active and pain-free. She was working as a church organist and a security guard as well as having a part-time weekend gig at a funeral home. While Thymes had complained of radiating neck pain after a 2015 car wreck, at the time of these events she was released from medical care and didn't have complaints of pain.

Against this backdrop Thymes attended the concert and then went into the casino. She took a seat in front of a slot machine and was described as sitting sidesaddle. The chair had a back to it.

As Thymes leaned back, the chair tipped over backwards. In the process of falling off the chair, Thymes landed on her buttocks. She

also planted her hand on the floor to break her fall, twisted her knee and struck her head on another chair.

Thymes was taken by ambulance to the ER at St. Christus where she was treated for a bruised knee as well as for back and wrist pain. The next day she began to report neck pain.

Thymes subsequently underwent a lengthy course of treatment for radiating neck and back pain. That included first physical therapy, injections, an ablation and ultimately a cervical fusion surgery. Thymes incurred medical bills of \$314,476 and \$231,605 for future care.

Thymes sued Golden Nugget and blamed it for the chair tipping over. She looked to prove the chair became unsecured from its sled base by a customer some three hours before she fell. Thus when she leaned back in the chair (this is a feature of the chair), it tipped over because it was not secured. The record is not clear in describing how or why the slot machine chair could be unsecured to the sled in the first place.

Thymes argued that the chair was not reasonably safe and as importantly that Golden Nugget had actual or constructive notice of the condition of the chair. That the notice was actual she noted that several employees including a cocktail waitress observed it. Moreover the entire area is covered by surveillance video which is continuously monitored. The plaintiff's safety expert was Jason English who argued Golden Nugget should have a process in place to identify chairs that are not secured to their sled.

Golden Nugget denied any notice of the fall and particularly argued that there was no testimony that any casino employee knew the chair was not secured. It also diminished the