

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

January 2013

Statewide Jury Verdict Coverage

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Mississippi including court, division, presiding judge, parties, case number, attorneys and results. Notable results from the southern region, including Memphis and New Orleans, are also covered.

Medical Malpractice - A teenage boy suffered severe burns when he received an improper dose (and an improper application) of a medication – the treating doctor at the ER who prescribed the medication admitted his care was substandard but argued at trial that the pharmacy that filled the prescription was an intervening cause of the plaintiff's injury

Glover v. Brooks, 11-716

Plaintiff: Rocky Wilkins, *Rocky*

Wilkins Law Firm, Jackson, Ben Wilson, *Ben Wilson Law Firm*, Jackson and Barry Howard, Jackson

Defense: Walter T. Johnson and Joseph G. Baladi, *Watkins & Eager*, Jackson

Verdict: \$3,500,000 for plaintiff assessed 75% to the defendant
Court: **Hinds**
Judge: Winston Kidd
Date: 12-14-12

Anthony Glover, then age 15, was taken to the ER at Baptist Health Center on 12-4-10 by his mother. He

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was suffering from a rash. Glover was seen in the ER by Dr. John Brooks. Brooks diagnosed him with a skin condition known as Molluscum Contagiosum.

Brooks prescribed that Glover be given a medication called Verr-Canth .07%. The prescription written by Brooks was filled at Marty's Pharmacy. Thereafter Glover's mother applied the medication to his body.

Soon after the application of the medication, Glover's skin began to burn. He developed large and weeping blisters across his body. His mother promptly returned him to Baptist Health Center. Because of the severity of the burns and Glover's pain, he was transferred to Georgia Burn Center. [It is the largest in the United States.] His treatment there included debridement and surgery.

Glover's final diagnosis was a 16% total body surface having suffered second-degree burns. In putting into perspective the seriousness of these burns, a person's hand represents 1% of the total body surface. The medical bills were approximately \$112,000.

Glover has been left with permanent scarring on his chest, neck, torso, arms and feet. He continues to have a sensitivity to hot and cold temperatures. This requires him to wear long sleeves and other protective clothing. There was vocational proof at trial that because of his injuries, there are certain classes of jobs involving extreme environmental conditions that are foreclosed for Glover. His vocational loss was valued at from \$700,000 to \$1.5 million.

In this lawsuit Glover alleged error by Brooks in several ways. The first error began with the diagnosis –

Glover did not have Molluscum Contagiosum. A treating doctor in Georgia and a retained expert, Dr. Tyler Barrett, ER, Vanderbilt, opined that Glover had just a common rash and prescribing Verr-Canth .07% was a dangerous deviation from the standard of care. Error was also assigned in the method the drug was administered. The plaintiff's proof was that it must be given by a physician in a medical office and never by the patient while at home and without supervision. The plaintiff also pursued a claim against Marty's Pharmacy regarding its duties in filing the prescription. The pharmacy settled before trial.

This case was unusual in that Brooks admitted his fault. That however was not the end of his defense. Brooks believed that the pharmacy's error in filling his erroneously written prescription represented an intervening cause of the injury. His pharmacy expert (who targeted Marty's Pharmacy) was Dr. Michael Todaro, Jackson. Todaro believed the pharmacy violated a duty to protect Glover.

Brooks also diminished the claimed injury with a dermatology expert, Chemene Quinn. Quinn testified that Glover's injuries were not burns but rather superficial injuries that will not result in a permanent injury.

The jury's verdict was mixed on fault. It was assessed 75% to Brooks and the remainder to the since-settled pharmacy. Turning to damages Glover took \$1.5 million in economic damages and two million more for the non-economic variety. The raw verdict totaled \$3.5 million.

At the time this report was written, no judgment had yet been entered. It is not clear what sum

Glover will recover in the judgment. Will it be 75% of the \$1.5 million in economic damages plus \$500,000 more (the statutory limit) for non-economic damages? Will Mississippi's statutory damage scheme be enforced at all? It is not yet decided.

Auto Negligence - The plaintiff pulled in front of a medical van and a serious collision resulted – a patient in the van suffered fatal injuries – his estate initially sued the plaintiff (who settled that claim) and the plaintiff then pursued the driver of the van – although she pulled in front of the van, the plaintiff blamed the van driver's excessive speed

Price v. Carmichael Family Health Center, 04-274

Plaintiff: R. Keith Foreman, McKay Simpson Lawler Franklin & Foreman, Ridgeland

Defense: C. Maison Heidelberg, Heidelberg Harmon, Ridgeland

Verdict: Defense verdict on liability

Court: **Madison**

Judge: John Emfinger

Date: 6-13-12

It was 5-26-04 and the elderly Willie Scott (a double-amputee) was being transported to a new residence in a Carmichael Family Health Center van. The van was driven by Michael Bouldin. Bouldin traveled on Hwy 16. Suddenly a vehicle driven by Shirley Price pulled out from an inferior drive and into the path of the van.

A serious collision resulted and the van rolled over. In the process of that roll-over, Scott (who was not restrained) was ejected from the van. He suffered fatal injuries. This litigation began with his estate targeting both Price (for having pulled into the van's path) and