

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

December 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.

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Nursing Home Negligence - During a six week stay at a nursing home an elderly plaintiff developed a Stage II pressure ulcer on his coccyx – this lawsuit linked the development of the ulcer to the failure to institute preventative skin care

Melvin v. Cleveland Nursing & Rehabilitation Center, 09-107

Plaintiff: Levi Boone, III, and Kevin Pulley, *The Boone Law Firm*, Cleveland

Defense: Barry W. Ford, Bradley W. Smith and Clay Gunn, *Baker Donelson Bearman Caldwell & Berkowitz*, Jackson

Verdict: Defense verdict on liability

Court: **Bolivar**

Judge: Albert B. Smith, III

Date: 10-30-13

Jimmie Melvin, then age 71,

became a resident in late August of 2008 at the Cleveland Nursing and Rehabilitation nursing home. Some six weeks later on 10-4-08, a Stage II pressure ulcer was identified on Melvin's coccyx. It was a small but grotesque injury.

Melvin was transported on that date to the Bolivar Medical Center for treatment. He never again returned to the nursing home. In this lawsuit Melvin alleged negligence by the nursing home in permitting the Stage II ulcer to develop.

As Melvin's cognitive functions were limited, a guardian was put in place to pursue the lawsuit. After Melvin's death (from other causes in March of 2010), the guardianship continued to advance the case to trial. There was no wrongful death claim.

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slid off the road and crashed into a tree.

Initially it was not thought that Wallace had suffered a serious injury. He has since treated for radiating back pain. In April of 2012, Dr. Orhan Ilercil, Neurosurgery, Flowood, performed a C4-6 fusion repair surgery.

In this lawsuit (originally filed in Hinds Circuit and then removed to federal court), Wallace blamed the crash on a manufacturing defect in his Crown Victoria. Particularly he cited that a bolt in the lower-ball joint (this is part of the front suspension) had fractured. That failure led to the crash.

Wallace’s liability experts were Robert Carbonera, Material Science

and Failure Analysis, Columbus, OH and Michael Cain, Accident Reconstruction. His economic loss was quantified by Gerald Lee, Economist, Clinton.

Ford defended the case and conceded the bolt was broken. However it postured that the fracture occurred because of the forces of the crash – that is, it didn’t break and cause Wallace to lose control but rather it fractured when the sedan struck the tree. Defense experts on liability included Michelle Vogler, Engineer, Novi, MI and Robert Pascarella, Engineer, Magnolia, TX.

As the parties prepared the case for trial, the court entered a pre-trial order. That order was sealed for no legitimate or justiciable reason and

thus remains a state secret.

The case was tried to a Jackson jury. The court’s liability instruction asked if the vehicle was in a defective condition and unreasonably dangerous because of a manufacturing defect. The answer was no and Wallace took nothing. A defense judgment was entered.

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