

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

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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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Products Liability - An industrial worker sustained devastating and paralyzing injuries when he became caught in a fiber batting machine – working for a temporary agency, he sought to impose liability against the manufacturing company - it prevailed at trial on a “borrowed servant” defense

Green v. Polyester Fibers, 1:13-234

Plaintiff: James C. King and
Winston J. Thompson, *The Cochran*

Firm, Greenwood and Justin L. Jones, King Wiley Williams, Jasper, AL
Defense: James D. Holland and
George M. Street, Jr., *Page Kruger & Holland, Jackson*

Verdict: Defense verdict on liability

Federal: **Aberdeen**

Judge: Sharion Aycock

Date: 11-5-15

Courtney Green, then age 18, was employed as an unskilled worker by a

temporary agency, Snelling Staffing. He was assigned by Snelling to do janitorial work at the Tupelo manufacturing facility of Polyester Fibers. The company makes fiber batting that is used in furniture.

The work is accomplished by a so-called "garnet machine" that processes raw polyester fibers. The machine was protected by a yellow perimeter guard. Green penetrated that perimeter in an apparent attempt to clean up polyester fibers that were under the machine. As Green did so his arm became caught in the machine.

This led Green to suffer a serious degloving injury of his upper extremity. The force of the impact also caused a spinal injury. Green has been left a permanent quadriplegic. He sought and received worker's compensation benefits from Snelling Staffing.

In this lawsuit Green alleged negligence by Polyester Fibers in failing to protect him from the injury. He cited proof that as a janitor he had received virtually no safety training or instruction beyond being told to clean things up. Particularly he recalled being told to go inside the yellow perimeter and clean around the machine.

Green relied on several experts to develop his theory. They included Franklin Darius, Industrial Safety, Cromwell, CT and Charles Benedict, Engineer, Tallahassee, FL.

Green's damage claims were also substantial. The life care plan was valued at between \$7.3 million and \$8.4 million. His lost earning capacity was estimated to be \$424,000. Damage experts for Green were William Burke, Life Care Plan, Portsmouth, NH and Ronald Missun, Economist, Louisville.

Before Green's negligence theory could reach the jury, he faced a significant procedural hurdle. Notably his claim was precluded by worker's compensation exclusivity, Polyester Fibers being either a "dual employer" or Green having status as a "borrowed employee." In either case worker's compensation exclusivity would protect Polyester Fibers from tort liability.

It was Green's theory that Polyester Fibers never acted as his employer in that it didn't give him instructions. He was merely assigned by Snelling Staffing and told to clean as instructed by Snelling Staffing. In that regard Polyester Fibers had exercised no control over his work.

Polyester Fibers moved for summary judgment and argued Green was either a dual employee or a borrowed servant. It argued that of course it directed Green's work which included specifically telling him not to go inside the perimeter of the garnet machine.

Besides the procedural defense Polyester Fibers denied it was negligent. It cited as above that Green was instructed not to go near the machine and was responsible for placing himself in peril. Defense experts were Eugenia Kennedy, Occupational Safety, Natick, MA, Bruce Main, Engineer, Ann Arbor, MI and James Koerber, CPA, Hattiesburg.

The jury in this case deliberated an hour before returning a verdict. It answered that Green was a dual employee of Snelling and Polyester Fibers as well as a borrowed employee. That ended the deliberations and the jury did not reach the critical question of whether Polyester Fibers was negligent. A defense judgment was entered.

Auto Negligence - A disputed red light case was resolved for the defendant on liability - the plaintiff has since challenged the verdict with a juror affidavit that the jury deliberations were based on confusion

Blair v. Sullivan, 10-337

Plaintiff: Terrell Stubbs, *The Stubbs Law Firm*, Mendenhall and Wayne E. Ferrell, Jr., Jackson

Defense: Mark E. Norton and Vick Smith, II, *Bryan Nelson*, Hattiesburg

Verdict: Defense verdict on liability

Court: **Simpson**

Judge: Eddie Bowen

Date: 10-1-15

There was a disputed red light crash on 8-20-06 in Simpson County at the intersection of Hwy 49 and Hwy 28. The plaintiff, Stephen Blair, alleged he had a green turn arrow that permitted a left turn. As he lawfully proceeded through the intersection he was struck by the oncoming George Sullivan. It was a serious impact.

Blair was left with several injuries including a cut to his face. Permanent scarring resulted. Blair has also complained of a chronic cervical strain. His medical bills were \$9,340.

In this lawsuit Blair sued Sullivan and alleged negligence by him in running a red light. It was Blair's argument that he had a protected green arrow allowing his turn and necessarily that Sullivan ran a red light.

Blair was prepared to introduce proof from a red light expert, John Rainwater, Engineer, Jackson about how the lights worked. Judge Bowen limited his testimony at trial and also provided a limiting instruction to the jury.

Sullivan's defense was simple. He had a green light that lawfully permitted him to enter the