

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

March 2023

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.

Employer Negligence - A trucker suffered a serious arm injury when he turned his truck over and his arm was impaled by a tree limb that penetrated his truck cab – when the trucker learned his employer didn't have worker's compensation insurance, he sued his employer directly to recover his damages suffered in the collision – because of the nature of this action, there was no worker's compensation exclusivity in terms of remedy, nor was the plaintiff's negligence a defense to the claim

Ealy v. South Land Transportation, 3:21-215

Plaintiff: Charles E. Robinson, Jr., *The Robinson Law Firm*, Ashville, AL, Jeffrey C. Kirby, *Kirby Johnson*, Birmingham, AL and William T. May, *Barry Thaggard & May*, Meridian

Defense: Jeffrey S. Moffett, *Markow Walker*, Ocean Springs, MS and Jonathan K. Corley, *Whittelsey & Corley*, Opelika, AL

Verdict: \$1,500,000 for plaintiff

Federal: **Jackson**

Judge: Tom S. Lee

Date: 2-8-23

Timothy Ealy of Indiana was working as a trucker on the morning of 1-3-19. He was taking a load of produce from Forest, MS to Philadelphia, PA. Who was Ealy driving for? That was not exactly clear.

Ealy had previously worked a year or so for Phenix West Trucking. However a few weeks before this load was to be hauled, Phenix West had gone belly up. It had lost his

DOT permission to operate.

While Phenix West was no more, a separate trucking firm, South Land Trucking, had filled the gap. Phenix West and South Land were both part of the local Wilkerson family trucking conglomerate in Forest, MS, the interconnected Wilkersons (father, mother and son) all operating different corporate entities.

Ealy for his part thought he was on a South Land trip. His truck had a South Land placard. He was also told at the company office (Phenix West and South Land shared facilities) that "Phenix West ain't no more and it's all under South Land now."

In all likelihood it probably wasn't going to make any difference on this haul. Whether Phenix West (bankrupt and no longer carrying worker's compensation insurance) or South Land, it didn't seem to matter much to Ealy. He was just planning to haul his load.

Ealy began his journey and traveled on I-59 through Alabama in St. Clair County. He suddenly lost control of his big rig. In a single vehicle accident, Ealy ran off the road and rolled the truck on its side. The truck then slid into a line of trees.

As the truck struck the trees, a large limb penetrated the truck's front windshield. It then impaled Ealy's arm and came out through the shoulder. It was a serious injury and Ealy was at the UAB Hospital for several days. Thereafter Ealy had limited care for a recurrent infection. His medical bills were approximately \$170,000 and off work for 10 months, his lost wages were \$30,000.

and then the leaked water froze.

Rowell immediately reported shoulder pain to the jail nurse and this was reflected in the records. He made continued complaints. However the jail doctor did not send him out for treatment.

Rowell was ultimately released from jail and some eight months after the initial fall, he treated for shoulder pain. A frozen shoulder was indicated. Moving forward three years he saw a second doctor who confirmed a rotator cuff tear. Rowell, who lacked access to medical care, incurred medical bills of \$545.

In this lawsuit Rowell sued ABL Management and alleged negligence by it in failing to maintain the premises in the freezer. He noted that while ABL Management wasn't in charge of the freezer itself, it was responsible for icy hazards that formed because of a slow leak – this was contrasted with if the ice had formed suddenly because of a gushing leak. Thus it was the failure to clean up the hazard that implicated ABL Management's responsibility. If Rowell prevailed he sought a general award of damages.

ABL Management countered that the heart of the case went to the leaky freezer and importantly, that the company had nothing to do with the maintenance of the freezer. In fact ABL Management had made numerous reports to jail officials to fix the leak and trustees (including Rowell) were told to be careful in the freezer until it was fixed. The defense also diminished the claimed damages and noted that Rowell's treatment was limited and in fact he didn't seek any treatment until eight months after the fall.

This case was tried in a single day. The jury found ABL Management

solely at fault and further wrote on the handwritten verdict form that it was "completely responsible" for the incident. It made Rowell a general award of \$125,000. A consistent judgment was entered.

ABL Management has since moved for JNOV relief. It called the verdict shocking and noted the \$125,000 award represented 229 times the medical specials. It suggested a remittitur to \$10,000 which would still represent an 18-1 (verdict to medicals) ratio.

Rowell replied colorfully to the motion that ABL Management seemed to be talking about another case in efforts to decry the verdict as obscene. In doing so, Rowell thought, the defense attempted to ignore the "common sense and judgment" of the jury in a jurisdiction that is considered among the most conservative in Mississippi. Rowell also argued on the ratio question that an indigent person who cannot afford medical care is still entitled to pain and suffering. He also noted the verdict represented just \$100 a day or so for his daily pain since the fall. The motion was pending at the time of this report.

Case Documents:

[Jury Verdict](#)

[Final Judgment](#)

[Defense JNOV Motion](#)

[Plaintiff JNOV Reply](#)

Truck Negligence - As the plaintiff made a right turn (it was disputed exactly how it happened) from a parking lot, her vehicle was dragged by a tractor-trailer that was also making the same turn but failed to see her – the plaintiff has complained of a lumbar disc injury as well as the need for a knee replacement surgery, a Jackson jury valuing her non-economic damages at \$750,000

Sanders v. Old Dominion Freight Lines, 21-117

Plaintiff: J. Ashley Ogden and James W. Smith, Jr., *Ogden & Associates*, Jackson

Defense: David C. Dunbar and Christopher G. Dunnells, *DunbarMonroe*, Ridgeland

Verdict: \$878,780 for plaintiff

Court: **Hinds**

Judge: Winston Kidd

Date: 2-1-23

Estelle Sanders, then age 66, was on her lunch break on 4-19-18 from her job at Barksdale Cadillac. She drove to a nearby Wal-Mart and got lunch to go. She was returning to work at East County Line road and was turning from the Wal-Mart shopping center.

At this juncture the exit from the Wal-Mart is two lanes (enter and exit) separated by a median. On one side of the median is a Krispy Kreme and there is a Taco Bell on the other side. The two lanes are wide enough to accommodate more than one vehicle. Sanders came to the right side of the exit lane and prepared to make her right turn.

A moment later an Old Dominion Freight Lines tractor-trailer driven by Bryant Anderson made a right turn from the same lane. As Anderson made his turn, he sideswiped Sanders's Nissan sedan and then dragged it several feet down the road.