

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

April 2014

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.

Premises Liability - The plaintiff slipped on a wet floor at a casino buffet and sustained a herniated disc injury

Smartt v. Isle of Capri, 14-CI-11-0050

Plaintiff: J. Harland Webster and Oliver Clark, *Chapman Lewis & Swan*, Clarksdale

Defense: R. Jefferson Allen and Joshua Moore, *Hunt Ross & Allen*, Clarksdale

Verdict: \$251,000 for plaintiff

Court: **Coahoma**

Judge: Albert B. Smith, III

Date: 3-27-14

Reuben Smartt, then age 53, was a patron at the Isle of Capri casino in Lula, MS – it is located near the bridge to Helena, AR. He entered the casino's buffet area and proceeded to eat. Some 20 minutes or so later, Smartt walked to leave the buffet area next to a display of fruit.

Casino custodians had been

mopping in the area. Nearly an hour earlier they had placed "Wet Floor" signs in the area near the buffet.

However no mopping was immediately undertaken – the so-called wet floor was actually dry.

Then as Smartt was eating, the casino did begin mopping. However it did so in a different area than were the wet floor signs had been placed. Smartt didn't appreciate the hazard and as captured on surveillance video, he fell hard. In the process of that fall, he sustained a disc herniation at C5-6 and a torn labrum in his shoulder.

Smartt later underwent a surgical repair on the injured disc. His injury was confirmed by a treating physician, Dr. Curt Freudenberger, a neck surgeon from Huntsville, AL. In this lawsuit Smartt (an equipment operator for the City of Huntsville) sought damages from the casino – he cited (1) the custodians having lulled him into a false sense of security by placing a wet floor sign on a dry floor, and (2) the custodians then beginning to mop an area of the floor that was unmarked. Smartt's medical bills were \$151,000.

Isle of Capri defended that wet floor signs were placed in the area and Smartt simply disregarded them. It also diminished damages with proof that Smartt had a history of pre-existing conditions. It relied in part on a records review by Dr. Rodney Olinger, Neurosurgery, Memphis, TN. The plaintiff countered the notion of an old injury citing that even the defense expert conceded the disc herniation was a new injury.

A jury in Clarksdale answered "yes" that the casino was "guilty of negligence" that proximately caused injury to Smartt. It rejected the imposition of comparative fault to

him. Then to damages the plaintiff took \$151,000 in compensatory damages and \$100,000 more of the non-economic variety. The verdict totaled \$251,000 and a consistent judgment is expected to be entered.

Nursing Home Negligence - The estate of an elderly woman alleged global neglect at a nursing home led to her death – a state court jury awarded medical bills to the estate, but rejected any award for non-economic damages

Cayson v. Manhattan Nursing and Rehabilitation Center, 10-820

Plaintiff: Gail S. Akin, *Akin Law*, Clinton and R. Paul Williams, III, Courtney M. Williams and Matt Newman, *Williams Newman Williams*, Jackson

Defense: W. Davis Frye, La'Verne Edney and Brad C. Moody, *Baker Donelson Bearman Caldwell & Berkowitz*, Jackson

Verdict: \$62,722 for plaintiff

Court: **Hinds**

Judge: Tomie Green

Date: 2-7-14

Carrie Cayson, age 96, was a resident at Manhattan Nursing and Rehabilitation Center (operated by a parent Tara Cares) from September of 2008 until her death on 5-17-09. In this lawsuit alleging global nursing home neglect, the estate of Cayson presented proof she received substandard care.

The plaintiff's case focused on three injuries sustained by Cayson at the nursing home. First she entered Manhattan Nursing without a pressure sore. Then during her residency a pressure sore on her low back grew to Stage IV and leaked into her bed – this was linked to the nursing home's failure to treat and assess Cayson's condition as well as

to turn her in a timely fashion.

There was also proof of related urinary tract infections related to the failure to properly monitor Cayson's catheter. Finally Cayson suffered a fall at the nursing home with a related head injury.

As a result of the purported global neglect, Cayson endured significant pain and suffering before her death. The estate's key liability expert was Teresa Lowery, RN, Trezevant, TN. The case advanced to trial against Manhattan Nursing and Tara Cares – the two entities were represented jointly at trial.

The defendants focused on two themes at trial. The first was that its care of Cayson was fully compliant with the standard of care. The second notion linked Cayson's decline at Manhattan Nursing to her underlying condition – namely, she was an elderly woman with multiple comorbidities including severe dementia. A defense expert was Gaye Ragland, RN, Madison, MS.

This case was tried for five days in Jackson. The verdict was for the plaintiff on liability. It was assessed between the related entities, 80% to Tara Cares and 20% more to Manhattan Nursing.

Moving to damages the estate took \$62,772 for medical bills (as incurred) but nothing for the funeral bill. Cayson's pain and suffering was also rejected. The verdict totaled \$62,772. The fault distinction between Tara Cares and Manhattan Nursing made little difference – the full measure of damages was assessed against Manhattan Nursing.

The plaintiff has since moved for a new trial and/or additur. It has challenged that there was overwhelming proof of pain and suffering, Cayson arriving at

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