

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

May 2022

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 - During a colon resection the plaintiff's surgeon cut her left ureter which led to respiratory failure, a lengthy hospitalization and other complications – the doctor called the injury a known risk of the surgery and linked the respiratory problems to aspiration pneumonia and not leaking urine from the ureter injury

Warren v. Fore, 3:20-220

Plaintiff: Daniel A. Seward, Memphis, TN

Defense: Kevin O. Baskette and Noor S. Obaji, *Lewis Thomason*, Memphis, TN

Verdict: \$250,000 for plaintiff

Federal: **Oxford**

Judge: Michael P. Mills

Date: 4-25-22

Vivian Warren, then age 66, had treated for chronic diverticulitis. A surgeon, Dr. Daniel Fore, performed an open colon resection on 7-30-18 at Baptist DeSoto Hospital. Fore was ostensibly careful in the surgery and even made it part of the medical record that he identified Warren's left ureter. The surgery was believed to have been uneventful and a success.

In fact during the surgery Fore had mistakenly cut the left ureter – this was even after he indicated he had identified it properly. The snafu was discovered the next day when a pathology report found a 2.7 cm segment of the ureter. Fore promptly consulted a urologist who performed a surgical repair.

However in the interim between the surgery and the repair (it was

three days later), there was evidence that urine leaked from the injured ureter. This in turn was linked to respiratory failure and other complications. Warren was on a mechanical ventilator for eight days and in the ICU for a total of 14 days. Her hospitalization lasted 35 days.

In this lawsuit Warren alleged malpractice by Fore in injuring her ureter, that injury leading to her complex and difficult course. Warren's expert, Dr. Neal Ellis, Surgery, Las Vegas, NV, was particularly critical of Fore for identifying the ureter and despite this, he still injured it. Ellis also explained that but for the ureter injury, rather than a 35 day hospitalization, Warren would have only been in the hospital for five days.

Fore defended the case on liability that ureter injury can and does occur in the absence of negligence, and that it represented a known risk of the surgery. Fore also contested causation and linked Warren's respiratory problems not to the ureter injury and leaking urine but instead to unrelated aspiration pneumonia. His experts were Dr. Richard Ellis, Surgery, Germantown, TN, Dr. Lee Nichols, Surgery, Jackson and Dr. Bryan Simmons, Infectious Disease, Memphis, TN.

This case was tried for six days in Oxford and the jury then deliberated for three hours. The jury answered that Fore had failed to meet the standard of care for the "minimally" competent general surgeon in performing a colon resection surgery.