

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

June 2011

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 Memphis, TN are also covered.

Medical Malpractice - An elderly plaintiff died of infection complications secondary to the failure to remove a contaminated kidney dialysis catheter

Hemphill v. Laney, 07-758

Plaintiff: Isaac K. Byrd, Jr. and Suzanne G. Keys, *Byrd & Associates*, Jackson
Defense: Diane V. Pradat and Bradley K. Overcash, *Wilkins Tipton*, Jackson
Verdict: \$1,000,000 for plaintiff

Court: **Hinds**

Judge: Winston Kidd

Date: 4-7-11

Mamie Hemphill, age 66, was admitted by St. Dominic Hospital on 7-13-05. Hemphill suffered from kidney failure and was reliant on dialysis treatment. Upon her admission, Hemphill was suffering from an infection that was related to a contaminated dialysis catheter in her neck.

Hemphill was treated by a nephrologist, Dr. Charles Laney. Laney focused on attempting to control the infection. His efforts failed. Hemphill developed sepsis and died three days after her admission.

In this lawsuit, Hemphill's estate sued Laney and alleged error by him in mismanaging her infection. The plaintiff's expert, Dr. Michael Blumenthal, Nephrology, Los Angeles, CA, focused that antibiotics were not enough – the standard of care required that the infected catheter be removed upon admission. While Hemphill was not working, she did receive Social Security benefits. An economist, Glenda Glover, valued the estate's pecuniary loss at \$103,668.

Laney defended the case that his care was proper. His expert, Dr. Thomas Wooldridge, Nephrology, Tupelo, MS, explained that the key in treating Hemphill was to attempt to control the infection. Just as significantly, the defense developed, the standard of care

did not require that the catheter be removed.

This case was tried in Jackson for four days. The jury's handwritten verdict was for the estate and it awarded \$200,000 for economic damages and \$800,000 more for the non-economic variety. The verdict totaled \$1,000,000. A consistent judgment was entered by the court. Laney has moved for a JNOV and remittitur relief. The motion is pending.

Fraud/Shareholder Dispute - A partner (the onsite manager and catfish farm expert) alleged he was frozen out by his partners who purportedly made false representations the business was failing – this jury awarded both compensatory and punitive damages

Winstead v. Simmons et al, 2009-C158

Plaintiff: Dorsey R. Carson and John M. Lassiter, *Burr & Forman*, Jackson
Defense: E. Barry Bridgforth and Wiley J. Barbour, Jr., *Henry Barbour DeCell and Bridgforth*, Yazoo City and John I. Donaldson, Yazoo City

Verdict: \$1,170,000 for plaintiff;

Defense verdict on counterclaim

Court: **Yazoo**

Judge: Janie Lewis

Date: 4-18-11

Ray Winstead enjoyed a long history in the catfish farming business – he typically lived on a farm property and handled the hands-on work of cultivating catfish fingerlings. Winstead entered an agreement in April of 2000 with Kilby Brake Fisheries. Kilby Brake represented a partnership between local businessmen, Harry Simmons and Chat Phillips.

The deal provided that Winstead would be a one-third partner in the operation to begin operating a defunct catfish farm. Kilby Brake put up the cash – Winstead made his contribution with sweat equity. [Kilby Brake also operated other catfish operations besides this farm.]

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