

# The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

August 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 the southern region, including Memphis and New Orleans, are also covered.

## Truck Loading Negligence -

**Twelve plaintiffs were injured (several seriously) when their vehicles (there were two) struck a crane counterweight that had fallen from a flatbed truck and into the traveled portion of I-59 – the trucking firm defended that a thief had stolen the truck (from Meridian 150 miles away) and carelessly dropped the load**

*Page et al v. Mitchell Crane Services, 1999-314H*

Plaintiff: Mark T. McLeod and Mitchell H. Tyner, Sr., *Tyner Law Firm*, Jackson and Dale Edward Williams, Covington, LA

Defense: William E. Whitfield and James E. Welch, Jr., *Copeland Cook Taylor & Bush*, Gulfport

Verdict: \$2,357,406 for plaintiffs (12 in all) less 75% comparative fault

Court: **Pearl River**

Judge: Prentiss Harrell

Date: 6-8-11

Patricia Page, then age 34, was driving a GMC passenger van on the evening of 7-25-99. It was foggy and rain was falling as she proceeded on southbound I-59 near Picayune. She had several family members with her, including her husband and minor children. In a second car (an SUV), another family (the Aronholt plaintiffs) were also traveling.

The third player in this drama was the driver of a flatbed trailer. The truck-trailer tandem was owned by Mitchell Crane of Meridian, MS. It was towing two large crane counterweights, each weighing 1,000 pounds. Suddenly the load shifted and both weights fell into the traveled portion of I-59.

A moment later, the Page van struck one of the weights and the van ran off the highway and rolled over. Several Page family members were hurt, several suffering very serious injuries. Patricia suffered a knee fracture and a spinal injury – her spine underwent several

repair surgeries.

Her daughter (Tiffany, age 17) suffered a very serious comminuted fracture of her femur and ankle. Her brother (Jeremy, age 10) had his foot severed. While it was reattached, Jeremy continues to limp. Another brother, Justin, suffered a twisted spinal cord that has affected his bladder control. Other plaintiffs in the Page vehicle (including her husband, Melvin) suffered less serious injuries. An instant later, the Aronholt vehicle also struck a weight and crashed. These plaintiffs (there were four) suffered soft-tissue injuries that were mild compared to the Page plaintiffs.

In this lawsuit, the Page and Aronholt plaintiffs (a total of 12 in all) sued Mitchell Crane and blamed its driver for failing to secure the load. Making matters worse after the load was lost, the driver simply drove away.

Mitchell Crane defended the case that the flatbed trailer was stolen from its yard in Meridian – thus the driver at the time of the crash was not an employee, but a thief. From the perspective of Mitchell Crane, it had nothing to do with the tortious conduct of the thief or this crash that occurred 150 miles away from its location. While the truck was recovered, the driver was never identified.

The plaintiffs countered that it was unlikely the truck had been started without a key – they thought the notion there was a thief was fanciful and paper thin. Although the plaintiffs focused that there was no thief, they argued alternatively in any event that a theft was foreseeable and the load had not been properly secured on the truck before the theft.

Because of the complexity of the damages and multiple injury claims, the court bifurcated liability and damages. The liability trial was conducted in March 2006. The first jury found fault with Mitchell Crane and the thief. That fault was assessed 25% to Mitchell Crane and

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**Mississippi Jury Verdict Reporter**

Case Style \_\_\_\_\_

Jurisdiction \_\_\_\_\_ Case Number \_\_\_\_\_

Trial Judge \_\_\_\_\_ Date Verdict \_\_\_\_\_

Verdict \_\_\_\_\_

For plaintiff \_\_\_\_\_ (Name, City, Firm)

For defense \_\_\_\_\_ (Name, City, Firm)

Fact Summary \_\_\_\_\_

\_\_\_\_\_

Injury/Damages \_\_\_\_\_

Submitted by: \_\_\_\_\_

\_\_\_\_\_

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the remainder to the thief. A consistent judgment reflected this finding.

Mitchell Crane moved for a JNOV and challenged the result. It argued that either the truck was stolen or it wasn't – there was no factual basis to find both it and the thief at fault. The plaintiffs replied that their theory also alleged negligent load securement. The motion was denied.

The second trial occurred in June of this year. As the jury deliberated, it had two questions for the court: (1) Can we have the medical bill summaries for the plaintiffs?, and (2) We would like a calculator for the mathematical calculations.

Back with a verdict, each of the twelve

plaintiffs took an award of damages. They ranged from a low of \$2,300 to a high of \$1.352 million for Patricia. The combined verdict (for all twelve verdicts) totaled \$2,357,406.

Looking more specifically at the numbers to the most seriously injured plaintiffs, Patricia's award represented \$755,000 of medicals and \$60,000 for lost wages. The rest was non-economic damages, including \$25,000 for her consortium claim. Her husband took \$286,693, medicals only representing \$1,443. The largest sum was emotional distress – \$206,250. He too took \$25,000 for consortium.

Justin's award was \$271,000 – medicals were \$65,000 of it. Jeremy

took \$79,500, medicals being \$45,000 of that award. Tiffany's verdict (the second largest of all plaintiffs) was \$298,000, with \$252,000 accounting for medicals. The other less seriously injured plaintiffs took minimal medical and nominal sums (\$1,000) for their pain and suffering.

The court's judgment reduced the verdict by half (not 75%) to account for the status of Mississippi's joint and several liability scheme in 1999. Crane Mitchell has challenged that assessment in a JNOV motion arguing that it is not possible to apportion fault between it and an intentional tortfeasor. Its motion cited additionally a total of 50 separate errors at trial. [One of those alleged errors included excluding proof that two of the Aronholt

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