

# The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

October, 2006

Statewide Jury Verdict Coverage

3 TJVR 10

## Unbiased and Independently Researched Jury Verdict Results

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### Civil Jury Verdicts

Timely coverage of civil jury verdicts in Tennessee including court, division, presiding judge, parties, case number, attorneys and results.

**Auto Negligence - A soft-tissue verdict for the plaintiff was 150 times the special damages – pending is a motion by the defendant that alleged juror misconduct, a juror (later the foreperson) suggesting to the defendant’s mother that the defense lawyer was not so smart and the defense should hire another lawyer**  
*Milliken v. Durham*, 4574-CV-03  
Plaintiff: Stacy A. Turner-Olson, Clarksville  
Defense: Herbert J. Sievers, Jr., Nashville  
Verdict: \$165,000 for plaintiffs  
Court: **Stewart**  
Judge: Allan Wallace  
7-19-06

On 4-9-02, Debra Milliken was southbound on US-79 when she was struck by a vehicle operated by Maryanne Durham, then age 19. Durham had been on Joiner Hollow Road at a stop sign and then made a left turn onto US-79. Milliken was pushed off the roadway and her car turned on its roof, down an embankment.

Milliken sustained a soft tissue injury with complaints of neck pain. An MRI showed a small cervical disc protrusion on the right. Her medical expenses totaled approximately \$4,000. She worked at a nursing home laundry which required some lifting. Her physician opined that she had a 5% impairment. Her husband, Gregory, a passenger, was not injured but claimed he missed work assisting Debra.

Milliken sued Durham for damages. Her husband Gregory asserted a loss of consortium claim. Durham attempted

to minimize damages and argued that the accident occurred at a dangerous intersection. Her view was blocked by a large truck parked on the edge of the lot at Papa Rock Market. She was inching up, trying to look for on-coming traffic when the contact occurred. She also alleged that, after the collision, Gregory profanely yelled at her, “You’d better have a good lawyer, teenagers don’t need to be out driving on the road!”

After one day of testimony, the jury declined to apportion fault finding that Durham was 100% responsible. Turning to damages, they awarded general damages to Debra in the amount of \$150,000 and \$15,000 to Gregory. A consistent judgment was entered.

The defense has moved for a new trial and/or for remittitur. In the motion, Durham has argued the complaint demanded only \$100,000 for Debra and \$25,000 for Gregory – as the demand was never supplemented, the award then should be limited to those demands.

More interestingly, the motion alleged juror misconduct. Apparently Attorney Sievers was some fifteen minutes late for the trial. Juror Tracey Rains then spoke to the defendant’s mother and remarked that their attorney was so stupid he couldn’t find the courthouse with Mapquest. This juror, according to the motion, also suggested that the defense hire another lawyer. Rains later served as the foreperson. Adding insult to injury and after the jury was excused, Rains talked for a long time with the plaintiff’s family and hugs and kisses were exchanged. This behavior was all contrasted with Rains having said in voir dire that she didn’t know either party. The motion cited this course of conduct as a basis for granting a new trial. The motion is pending.

The Tennessee Jury Verdict Reporter  
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