

# The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

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Statewide Jury Verdict Coverage

7 TJVR 10

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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.

### Medical Negligence - An otologist was blamed for misdiagnosing the plaintiff's condition (he thought it was Meniere's Disease) when in fact it was positional vertigo – his surgical remedy (streptomycin perfusion therapy) made the condition much worse

*McDonald v. Shea*, CT-003393-05

Plaintiff: Gary K. Smith and Janelle C.

Clark, *Apperson Crump & Maxwell*,

Memphis

Defense: Albert C. Harvey and Justin N.

Joy, *Thomason Hendrix Harvey Johnson*

& Mitchell, Memphis

Verdict: \$500,000 for plaintiff

Court: **Shelby**

Judge: John R. McCarroll

6-24-10

Marsha McDonald was treated by an otologist Dr. Paul Shea of Shea Ear Clinic on 7-16-04. She was complaining of feeling light-headed when sitting down too fast or rising too fast. Shea diagnosed McDonald with Meniere's Disease and recommended a streptomycin perfusion therapy. He so treated her on two occasions on 7-20 and 7-22.

McDonald's condition became much worse. She now has significant balance problems – McDonald reports being dizzy and constantly off-balance. Beyond vertigo, McDonald also has lost hearing in the ear where the therapy was administered.

McDonald sued Shea and alleged negligence by him. Her expert, Dr. Dennis Maceri, ENT, Northridge, CA, argued a uniform standard had been violated. Namely, Shea made a misdiagnosis as McDonald didn't suffer from Meniere's Disease. Instead she had positional vertigo, a condition that could be treated with conservative care.

Maceri explained the incorrect diagnosis led to the wrong therapy and ultimately to McDonald's permanent

injury. Shea defended and denied fault. His expert was Dr. David Payne, ENT, Nashville – Shea also challenged Maceri's expert status as he does not reside in a contiguous state. [The court had waived the contiguous state requirement.]

The jury found both that Shea was negligent and that this proximately caused McDonald's injury. Then to damages she took a general award of \$500,000. A consistent judgment was entered. While deliberating the jury had asked to see Dr. Payne's testimony. The court declined.

Shea has since moved for JNOV relief. He has argued that (1) the verdict was contrary to the proof, and (2) it was error to waive the contiguous state rule. The motions is pending.

### Premises Liability - A motel patron tripped on a mat that was not flush with an edge and sustained a knee injury

*Adams v. Best Western Inn*, 08-699

Plaintiff: Charmaine Nichols, Sevierville

Defense: Mary Jo Mann, Stokes

*Williams Sharp & Davies*, Knoxville

Verdict: Defense verdict

Court: **Sevier**

Judge: Richard R. Vance

4-29-10

Helen Adams, age 61 and of Ohio, was a guest at the Best Western Inn in Pigeon Forge on 10-11-07. She had come to town to attend a well-known show, the Dixie Stampede. As she returned to the motel, Adams stepped onto a curb at a common entrance to the motel. The curb was covered by a mat.

However the mat was not flush with the edge of the curb. That caused Adams to trip – she landed hard on her knees. She has since treated (upon her return home) for a meniscal tear and a sore shoulder. Her medical bills were \$10,856.

In this lawsuit, Adams sued the motel

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