

The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

November, 2006

Statewide Jury Verdict Coverage

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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.

FELA - The plaintiff linked both brain damage to solvent exposure and a respiratory injury from asbestosis to his railroad employment

Hensley v. CSX, 02 CI 153

Plaintiff: Joseph D. Satterley, *Sales Tillman Wallbaum Catlett & Satterley*, Louisville and Doug Nichol, *Nichol & Associates*, Knoxville

Defense: Gareth S. Aden, *Gullett Sanford Robinson & Martin*, Nashville, TN and Randy Jordan, *Jordan & Moses*, *St. Simons Island*, GA

Verdict: \$5,000,000 for plaintiff

Court: **Hamilton**

Judge: Jacqueline Schulten
10-1-06

Thurston Hensley, now age 67, was an employee of CSX and its predecessors from 1971 to 2004. He mostly worked at the railyards in Corbin, Kentucky as an electrician. Since retired, Hensley has suffered from two distinct injuries.

The first was brain damage, purportedly linked to the exposure to cleaning solvents used at CSX. There was proof that he had frequent and prolonged exposure to chlorinated hydrocarbons, including TCE, TCA and PERC, among others. Hensley developed a FELA theory that CSX knew of the exposure and the danger, yet it did nothing to warn or protect him. Hensley's second injury was respiratory and he linked it to on-the-job asbestos exposure.

Hensley now has trouble breathing and ambulates with a cane. In proving his injury, plaintiff pointed to an MRI that indicated atrophy of his brain as well as abnormal neuropsychological testing. His experts at trial included Dr. Edward Baker, Occupational Medicine, George Rodgers, Toxicology, Dennis Sprague, Neuropsychology and Dr. Michael Ellenbecker, Industrial Hygiene.

CSX defended on several fronts. It

first postured there was no brain injury linked to solvents. Any neurology impairment, the railroad thought, was related to mini-strokes he had suffered. Similarly, his breathing problems were not asbestosis, but rather were founded in a combination of his age and obesity. Experts for CSX were Dr. Barry Gordon, Neurology, Dr. Robert Granacher, Psychiatry, John Doull, Toxicology and Dr. Bernard Gee, Pulmonology.

This case was tried in Chattanooga for three weeks. It is learned that before trial, this matter did not come close to settling. CSX had offered nothing – several days into trial, it increased its offer to \$15,000.

The verdict on the first day of October after 2 and ½ hours of deliberations. It was for Hensley and he took a general award of \$5,000,000. A consistent judgment followed.

Just a week before this trial started, CSX lost a similar brain-injury solvent verdict in Louisville, Kentucky. That plaintiff was awarded \$1.8 million – he was also represented by attorney Satterley.

National Origin Discrimination A radiology technician, a native of India, alleged harassment by her racist boss who called her an "Asian Monkey" and otherwise belittled her

Shivashanker v. Methodist Healthcare, 2:04-2386

Plaintiff: Kathleen L. Caldwell, Memphis
Defense: Todd D. Photopulos and David P. Jaqua, *Butler Snow O'Mara Stevens & Cannada*, Memphis

Verdict: Defense verdict

Federal: **Memphis**

Judge: Jon Phipps McCalla
10-3-06

Rama Shivashanker was employed as a radiology technician for Methodist Healthcare in Memphis. She was