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December 2013

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Civil Jury Verdicts

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Medical Negligence - The plaintiff presented to an ER with signs of an apparent cardiac problem – she was released and died two days later of a sudden heart attack

Rogers v. Jackson et al, 56605

Plaintiff: L. Gilbert Anglin, Murfreesboro

Defense: Phillip North and Edward Hadley, North Pursell Ramos & Jameson, Nashville for Jackson Thomas A. Wiseman and Kimberly G. Silvas, Wiseman Ashworth Law Group, Nashville for Bonner

Verdict: \$973,790 for plaintiff against Jackson only; Defense verdict for Bonner

Court: **Rutherford**

Judge: Royce Taylor

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company load rail cars.

Union City Grain then had an arrangement with Illinois Central Railroad. The railroad would supply Union City Grain with empty rail cars. Union City Grain would then fill those cars with grain and Illinois Central would pick them up.

On this day the railcars were being gathered so they could be filled. To accomplish this task, Union City Grain managers were pushing a total of seven cars to be loaded. The cars were not fully coupled, there being two sets – one set had five railcars and the other had two.

To move the seven railcars, a large front-end loader was pushing them. Incredibly this jerry-rigged operation occurred in the middle of Union City

– the train tracks run through town. As the trains were moving, Barahona ran along a railcar.

An instant later Barahona jumped onto a train to operate the manual brake. At that moment the five cars (which were being pushed by the loader) collided with the other two cars. The impact caused Barahona to fall from the railcar – he landed under it and sustained fatal injuries.

In this lawsuit prosecuted on the part of Barahona’s estate, negligence was alleged by Illinois Central in supplying rail cars that had defective couplers. The case was presented as representing a violation of the Federal Safety Appliance Act. The plaintiff’s rail safety experts were Paul Bymer and Michael O’Brien.

Illinois Central defended the case and blamed the accident on a combination of errors by both Barahona and his employer. Particularly they focused on the obvious folly of Union City Grain pushing railcars with a front end loader – even more incredibly, Barahona was assigned the task of running alongside a railcar to jump onboard to operate the handbrake. Thus it was those errors and not the coupling that led to Barahona’s death. A defense rail safety expert was Randall Morris.

This case was first tried in September of 2010. The jury’s verdict exonerated Illinois Central. The plaintiff moved for a new trial and cited an evidentiary error in the

Have you tried a case lately? We are traveling all over the state and communicating with court personnel, but if we know about a verdict, we'll get on it right away

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Tennessee 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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Premises Liability - The plaintiff tripped on a thick mat while walking into a motorcycle shop and suffered assorted injuries – in this lawsuit she blamed her fall on the thickness of the mat – the store defended that the condition of the mat was open and obvious

Anderson v. Sloan Motorcycle, 65477
Plaintiff: Patrick D. Witherington, Callahan Witherington, Nashville
Defense: Britton J. Allan, Ortale

Kelley Herbert & Crawford, Nashville
Verdict: Defense verdict
Court: **Rutherford**
Judge: Royce Taylor
Date: 9-17-13

Pauline Anderson, then age 68, entered Sloan’s Motorcycle and ATV in Murfreesboro on 10-24-11. As she walked through the store, she tripped over a thick mat on the floor. She fell forward and was briefly knocked unconscious.

Anderson was taken by ambulance

to a local hospital and given a battery of tests. She was diagnosed with a chest wall bruise, a bruised knee and other soft-tissue injuries. A CT scan was negative for any intercranial injuries. There were no fractures.

Several months later Anderson began to complain of low-back pain. She was diagnosed with both degenerative conditions and an L-1 compression fracture. The fracture was surgically repaired. Her medical proof linked the compression fracture

Auto Negligence - Husband and wife plaintiffs were rear-ended on the interstate by the defendant – that defendant blamed the crash on a phantom driver that had sideswiped her

Ramsey et al v. John Doe et al, 11-1207

Plaintiff: Michael K. Smith,
Nashville

Defense: Herbert J. Sievers, III,
Nashville for Bates

Scott A. Rhodes and J. Adam Porter,
White & Rhodes, Brentwood for John
Doe

Verdict: \$8,749 for Ramsey and
\$5,700 for Valentine assessed
against Bates only; John Doe
exonerated

Court: **Davidson**

Judge: Thomas Brothers

Date: 8-6-13

Lindsey Bates traveled on I-24 on 8-22-12 in an inside lane. Ahead of her on the interstate was Cecil Ramsey – he was driving a sedan in the middle lane. His wife, Marquinta Valentine, was a passenger.

A moment later Bates would recall a John Doe driver sideswiped her. This caused her to lose control and rear-end the Ramsey vehicle. The Ramsey vehicle then careened into the median.

Both Ramsey and Valentine (the plaintiffs in this lawsuit) treated immediately after the crash at the hospital. Each has since treated for soft-tissue symptoms. In this lawsuit they sought damages from both Bates and their uninsured motorist carrier regarding the purported conduct of the John Doe.

Bates defended the case as noted above – it was the John Doe that caused her to lose control. The insurer (defending in the name of John Doe) denied there had been a John Doe – no witness (except for

Bates) had seen this phantom.

This case was tried for two days. The jury found Bates 100% at fault for the crash, concluding there was no phantom driver. This finding exonerated the insurer for the plaintiffs.

Then to damages and against Bates only, Ramsey took medicals of \$5,749 and \$1,500 each for suffering and loss of ability to enjoy life. His personal injury verdict totaled \$8,749.

Valentine too prevailed and took her medicals of \$3,908. Her lost wages were \$793. The jury awarded her \$500 each for suffering and loss of ability to enjoy life. Her verdict totaled \$5,700. A consistent judgment reflected the mixed verdict.

Auto Negligence - The plaintiff complained of soft-tissue symptoms after a rear-end crash

Spears v. Martin, 4217

Plaintiff: Thomas C. Gorham,
Gorham & Associates, Nashville

Defense: William L. Moore, Jr.,
Gallatin

Verdict: \$29,796 for plaintiff

Court: **Trousdale**

Judge: John D. Wootten, Jr.

Date: 7-18-13

There was a rear-end wreck on 6-12-10. The plaintiff, Eugene Spears, age 65, was stopped in traffic that had slowed to make a left turn. An instant later Spears was rear-ended by Robert Martin. It was a moderate collision.

Spears has since treated for soft-tissue injuries. His injuries were confirmed by Dr. David Gaw, Orthopedics, Nashville. In this lawsuit Spears sought damages from Martin. [Martin has since died, the

case advancing against his estate.] The plaintiff's wife also presented a derivative consortium count. The Martin estate defended the case and minimized the claimed injury.

This case was tried on damages only. Spears prevailed and took his medicals of \$17,296. The jury rejected any award of future care.

Spears took \$2,500 more for past pain and suffering – that in the future was valued at \$10,000. His loss of enjoyment of life was rejected. The jury also rejected his wife's consortium claim. The verdict totaled \$29,796. A consistent judgment was entered and Martin's estate has since satisfied it.

Auto Negligence - An accident occurred when a motorist made an illegal left turn out of the Baptist Memorial Hospital parking lot - however, the jury found both drivers to be equally at fault for the collision

Foster v. Bailey, 5254-09

Plaintiff: L.E. Van Eaton, *Van Eaton & Rosenberg*, Memphis

Defense: Craig B. Flood, II, *Heaton & Moore*, Memphis

Verdict: Defense verdict on liability

Court: **Shelby**

Judge: Gina C. Higgins

Date: 3-20-13

On 12-3-08 Linda Foster, then age 46, was driving eastbound on Walnut Grove Road in Memphis after having exited the expressway. As she approached the main entrance to Baptist Memorial Hospital, Caitlyn Bailey, who was headed northbound out of the parking lot, turned left to go west on Walnut Grove. Bailey struck the front right side of Foster's vehicle.

Foster suffered soft tissue injuries to her neck and back that required