

The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

February 2007

Statewide Jury Verdict Coverage

4 TJVR 2

Unbiased and Independently Researched Jury Verdict Results

In This Issue

Davidson County

Auto Negligence - Defense verdict p. 2
Medical Negligence - Defense verdict p. 5
Auto Negligence - Defense verdict p. 6

Shelby County

Auto Negligence - Defense verdict p. 2
Auto Negligence - Defense verdict p. 9

Franklin County

Products Liability - Defense verdict p. 1

Knox County

Assault - \$5,000,000 p. 2
Auto Negligence - Defense verdict p. 8

Hamilton County

Auto Negligence - \$97,500 p. 4
Uninsured Motorist - Defense verdict p. 9

Warren County

Medical Negligence - Defense verdict p. 4
Tree Negligence - \$1,700 p. 8

Robertson County

Auto Negligence - \$4,000 p. 4
Premises Liability - \$50,000 p. 8

Federal Court - Nashville

Sexual Assault - \$8,500,000 p. 5

Rutherford County

Auto Negligence - \$150,000 p. 5
Auto Negligence - \$50,000 p. 9

Madison County

Auto Negligence - \$6,500 p. 6
Breach of Contract - Mixed verdict p. 6

Union County

Auto Negligence - \$32,300 p. 6

Haywood County

Auto Negligence - \$3,200 p. 7

Montgomery County

Premises Liability - Defense verdict p. 7

Claiborne County

Auto Negligence - \$1,000 p. 7

Lawrence County

Breach of Contract - \$26,500 p. 9

Civil Jury Verdicts

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

The Tennessee Jury Verdict Reporter 2006 Year in Review

This important bound volume, the second in the series, 254 pp., has just been published, and is ready for immediate delivery. It includes detailed analysis of every kind of case in 2006, easily sorted and indexed. Over 20 individual reports are included, including car wrecks, medicals cases, discrimination suits, premises liability, plus breakdowns of loss of consortium and punitive damage claims. There is also an injury index, which places an average multiplier on several types of bodily injury. The Review includes the full text of the reported cases in 2006, easily referenced by region, style, result and attorney. But this is the second edition, so all the reports and analysis cover a two-year period.

**See the ad inside for details on how to order
this one of a kind publication.**

Products Liability - The plaintiff was injured when a steering arm spindle on his tractor broke and the tractor flipped down a ravine
Motlow v. Yearwood Implement, 12862-CV

Plaintiff: Mike P. Lynch, *Lynch Lynch & Lynch*, Winchester

Defense: Craig R. Allen and Barret S. Albritton, *Leitner Williams Dooley & Napolitan*, Chattanooga

Verdict: Defense verdict

Court: **Franklin**

Judge: Thomas W. Graham
2-22-06

This matter began as Fred Motlow was using a tractor that was distributed by Yearwood Implement. Suddenly the steering arm spindle on the tractor broke. The tractor went out of control and it flipped down a hill into a ravine. In the resulting accident, Motlow suffered assorted soft-tissue injuries to his head, neck and back.

His treating doctor, Richard Fishbein, Orthopedics, Tullahoma, identified a 23% impairment, Motlow persistently complaining of headaches – the doctor considered Motlow totally disabled. Motlow also complained of a disc injury.

Plaintiff's medical bills were \$42,000 and he sought \$120,000 for future care. The damaged tractor was also valued at some \$18,000.

Motlow's liability theory against Yearwood Implement implicated both negligence and products liability regarding the failed steering arm spindle. Yearwood Implement defended that there was no defect, the steering arm spindle having been modified by a prior owner. It also diminished the claimed headache injury, suggesting they were subjective.

The case went to the jury on both negligence and product liability claims. The jury did find that the tractor was defective, but further found the plaintiff 50% at fault, that finding barring any recovery. Plaintiff moved for a new trial – the motion was denied and there was no appeal.

Auto Negligence - The defendant pulled from a chicken restaurant and into traffic, striking the plaintiff's car

Dasheles v. Ferguson, 06C-1140

Plaintiff: Ross A. Barton, Goodlettsville

Defense: Dennis E. Blevins, Nashville

Verdict: Defense verdict

Court: **Davidson**

Judge: Hamilton V. Gayden, Jr.
10-31-06

On 6-20-05, Wendi Ferguson was in the process of pulling from the parking lot of a Popeye's restaurant. Traffic was heavy on Myatt Drive near Rivergate Mall. Ferguson was able to squeeze through the stopped traffic in one direction and enter the turn lane.

At the same time, William Dasheles, was approaching in that turn lane. He was struck by Ferguson as she entered it. A minor collision resulted. Dasheles has since treated for soft-tissue neck and back pain, incurring medical bills of \$1,806.

He sued Ferguson, blaming her for pulling into the turn lane and his path. She defended on fault and implicated his failure to keep a look-out.

This case was resolved on comparative fault, the jury assessing 50% to each party. While deliberating, the jury had asked Judge Gayden: Can the plaintiff recover medicals without other damages? He replied that "This is up to you."

Auto Negligence - The verdict in a very minor rear-ender was for the defendant on causation

Jackson v. Dearnemey, 5412-03

Plaintiff: Danese K. Banks, *Cochran Cherry Givens Smith & Bolton*, Memphis

Defense: Don G. Owens, III, Memphis

Verdict: Defense verdict

Court: **Shelby**

Judge: Jerry Stokes
4-5-06

It was 10-4-02 and Vanessa Jackson, then age 34, was stopped at a red light on Poplar Avenue. An instant later, she was rear-ended by Amy Dearnemey. The impact was minor. Dearnemey was apologetic at the scene, explaining her foot slipped off the brake pedal. Fault then was no issue.

Jackson has since treated for radiating neck pain, incurring medicals of some \$8,000. She sued Dearnemey and sought money damages. Dearnemey defended that this wreck was too minor to cause injury, noting there was no vehicle damage and Jackson did not complain of an injury at the scene.

The court's instruction asked if Jackson was injured as a result of the wreck. The answer was no and plaintiff took nothing. A defense judgment followed this two-day trial.

Assault - In a scuffle that started about a teenage girl, the plaintiff (the stepfather of her boyfriend) was thrown to the ground by the girl's father – in the resulting fall, the plaintiff was rendered a quadriplegic

Garcia v. Holden, 1-289-04

Plaintiff: David S. Wigler, *Law Offices of Herbert S. Moncier*, Knoxville

Defense: William Arthur Simms, *Arnett Draper & Hagood*, Knoxville

Verdict: \$5,000,000 for plaintiffs

Court: **Knox**

Judge: Dale C. Workman
10-12-06

Robert Holden was struggling with the conduct of his teenage daughter, Stephanie, in the Spring of 2003. He was concerned she was running with the wrong crowd, a crowd that smoked, drank, got tattoos and piercings and had colored hair. At the top of Holden's

enemies list was Stephanie's boyfriend, Adam Morrison.

On the evening of 5-25-03, Stephanie spent it with Adam at Adam's home – Adam then lived with his mother and stepfather, Lisa and Ricardo Garcia. By Stephanie's description, she was drinking, smoking pot and having sex with Adam.

Holden arrived at the Garcia home to retrieve Stephanie. Adam told Holden to leave or that he'd call the police. Holden moved towards Adam, Ricardo then stepping between the two. Holden kept coming and threw Ricardo to the ground. Adam and two other friends then jumped into the scuffle.

In the fall and resulting brouhaha, Ricardo sustained a catastrophic C6-7 disc injury. He has been rendered a permanent quadriplegic. Garcia, then age 38, has so far incurred medical bills in excess of \$700,000.

Initially the State of Tennessee prosecuted Holden criminally. Holden was acquitted. This civil lawsuit followed, Garcia alleging an assault theory. Holden defended that it was Adam and his friend who were the aggressor, the injury likely occurring when the three boys piled on. That defense was muted in part at trial as the court directed a verdict on liability.

Thus the jury deliberated damages only – it could award both compensatory damages and punitives. After three days of proof, Ricardo took \$4,000,000, his wife taking \$1,000,000 more for her consortium interest. Punitives were rejected. The verdict totaled \$5,000,000 and a consistent judgment followed. Holden moved for a new trial, but the motion was denied.

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The TJVR 2006 Year in Review
(The Second in the Series)

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The 2006 Year in Review has just been published and at 254pp. bound, it is our most ambitious project yet in Tennessee. It includes comprehensive analysis of every reported civil jury verdict from 2006, but more than that it sorts the raw verdicts in more than twenty reports on all sorts of patterns, trends and categories. This year's edition also sorts that data on a two-year basis.

The Book is available either in print or a PDF (Adobe) format. [The PDF version is fully searchable with Adobe.] Each version of the 2006 Book sells for \$160.00.

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