

# The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

March 2007

Statewide Jury Verdict Coverage

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*Unbiased and Independently Researched Jury Verdict Results*

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## 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.

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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.

**Truck Negligence - In a 1996 crash, the plaintiff, then a graduate student, was struck by a passing tractor-trailer, the crash causing a traumatic brain injury**

*Quinnan v. Trans-State Lines*, 00-2140  
Plaintiff: R. Price Nimmo, *Nimmo Hoehn & Nimmo*, Nashville

Defense: Hal W. Wilkins, *Leitner*

*Williams Dooley & Napolitan*, Nashville  
Verdict: \$300,000 for plaintiff

Court: **Davidson**

Judge: Thomas W. Brothers

11-1-06

On 6-5-96, Susan Quinnan, then age 29 and a graduate student at Belmont, was a passenger in a car driven by her father. They traveled in Nashville on I-65 near Shelby Street. At the same time, a trucker, Kevin Gleason of Trans-State Lines, was also proceeding on I-65.

Gleason suddenly changed lanes and

struck the Quinnan vehicle. [It was a rare 1986 Fiero.] While it was a moderate impact, no injury was reported at the scene and Quinnan went on to classes that day.

She has since complained of a more complex history. Beyond soft-tissue symptoms, she has reported a persistent and permanent traumatic brain injury that has caused depression, headaches and affected her sleep and concentration. The injury mechanism was developed by a neurologist, Dr. Jan Brandes, Vanderbilt.

Brandes described that Quinnan's brain was injured by spinal shock, her brain striking the spinal stem in the jolt of the wreck. Quinnan has also complained of paresthesias, a numbness in her extremities.

Trans-State Lines defended the case and argued no serious injury had been sustained in this wreck. It noted that there was no loss of consciousness and as noted above, that she was well enough to go to school that day and later complete her Masters in 1998. The defense theorized that Quinnan's symptoms were related to a childhood incident (she was hit in the head with a shovel) and then a more serious 1998 MVA.

Tried on damages only, this Nashville jury had a question for the court. It asked: Is the \$10,000 a year in future medicals out of pocket and how much is paid by insurance? If there was an answer, it is not a part of the record.

Back with a verdict, Quinnan took a total award of \$300,000. That represented medicals of \$70,000, plus \$40,000 for future care. She took \$50,000 each for past and future lost earnings.

Turning to non-economic damages, she took a total of \$90,000. The verdict totaled \$300,000. A consistent judgment followed.

Post-trial, Trans-State Lines has sought to enforce a Hi-Lo agreement reached during trial. Its parameters were \$200,000-\$30,000. Quinnan has resisted enforcement, explaining her counsel had discussions about a Hi-Lo, but never actually came to an agreement. The defense has also moved for remittitur. All motions are pending.

**Auto Negligence - While stopped to make a turn, the plaintiff was rear-ended – she then treated with a chiropractor for soft-tissue symptoms**

*Ezell v. Allstate*, 1-86-04

Plaintiff: Jack W. Piper, Jr., *O'Connor Petty Child Piper & Hudson*, Knoxville

Defense: Joe R. Feagins, Knoxville

Verdict: \$35,000 for plaintiff

Court: **Knox**

Judge: Dale C. Workman  
5-17-06

On 2-26-03, Marlene Ezell traveled on Schaad Road in Knoxville. Slowing to make a left turn, Ezell was rear-ended by Laurie Payne – Payne was in a 1986 Ford Bronco. The crash resulted in moderate damage. Ezell has since treated with a chiropractor for soft-tissue symptoms.

She incurred medicals of some \$6,000. In this lawsuit Ezell first targeted Paine – Paine was uninsured and bankrupt, Ezell then moving against her UM carrier, Allstate. It defended in the name of Paine and diminished damages.

Tried in a single day, the verdict was for Ezell and she took a general award of \$35,000. A judgment in that sum was entered on her behalf.

Post-trial, Allstate moved for a new trial and/or for remittitur, arguing the verdict was excessive. It cited plaintiff's history of prior symptoms following a wreck in the 1980's. The motion was denied.

**FMLA - A computer programmer for Dollar General alleged she was fired two days after returning from FMLA leave – the employer denied the FMLA leave had anything to do with it, noting that the discipline began before her leave started**

*Bryant v. Dollar General*, 3:05-840

Plaintiff: Douglas B. Janney, III, Nashville

Defense: Keith D. Frazier and Jonathan O. Harris, *Ogletree Deakins Nash Smoak & Stewart*, Nashville

Verdict: \$73,942 for plaintiff

Federal: **Nashville**

Judge: Robert Echols  
11-2-06

Martha Bryant started working in 2001 as a computer programming analyst

for the discount retailer, Dollar General. Bryant, who had a history of diabetes and high blood pressure, was stable in 2002 and 2003. As 2004 dawned, she began to take off work to treat her condition. That culminated in May of 2004 when she sought a FMLA absence.

Bryant was on leave from 5-19-04 to 5-24-04. Two days later, Bryant was out of work. Dollar General cited the culmination of longstanding performance problems. The impetus for the firing, it explained, was that Bryant who was being counseled, had been told not to discuss that counseling with co-workers. It apparently made them uncomfortable. Citing that Bryant disobeyed that directive, she was fired.

Bryant thought that explanation was just a pretext to mask FMLA retaliation. Her theory was simple – she took FMLA leave and was immediately fired. If prevailing at trial, she sought an award of lost wages.

Dollar General defended as above and noted that her discipline problems began even before the FMLA leave. As importantly, the employer cited that as Bryant took absences in early 2004, *it suggested to her* that she take FMLA leave. How then could it object to her FMLA absence when it had first raised the idea to her?

Bryant prevailed at trial on the retaliation claim and was awarded \$73,942 in lost wages. In its judgment the court added an additional sum in liquidated damages. Dollar General has appealed.

**Auto Negligence - Following a moderate rear-ender, the plaintiff complained of back pain – his verdict was 35 times his incurred medicals**

*Gilley v. Sims*, 02-1666

Plaintiff: Lloyd A. Levitt, *Levitt & Levitt*, Chattanooga

Defense: Melissa A. Moreau, *Luther-Anderson*, Chattanooga

Verdict: \$185,000 for plaintiffs

Court: **Hamilton**

Judge: W. Neil Thomas, III  
10-27-06

There was a rear-end wreck in Chattanooga on 9-26-01. The plaintiff, Rickey Gilley, age 43, was on an I-24 exit

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*(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.

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