

The Tennessee Jury Verdict Reporter

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April 2013

Statewide Jury Verdict Coverage

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Auto Negligence - A college freshman and tennis player at Christian Brothers University suffered serious injuries in a right of way collision

Mellow v. Shaw, CT-004734-08

Plaintiff: Jeffrey S. Rosenblum,

Rosenblum & Reisman, Memphis

Defense: Garrett M. Estep, *Farris*

Bobango, Memphis

Verdict: \$190,000 for plaintiff

Court: **Shelby**

Judge: Gina C. Higgins

Date: 2-13-13

Robyn Mellow was a college freshman on 10-4-07 at Christian Brothers University in Memphis – she was also on the school's tennis team. On this day she traveled on Germantown Parkway at its intersection with Cordova Station. Suddenly Robbie Shaw pulled from a private drive and into Mellow's path. A serious collision resulted.

Mellow was badly injured in the crash. She suffered permanent scarring to her hand as a result of it going through the windshield in the collision. The impact also displaced a Lap-Band – this led to a surgery to repair and replace the Lap-Band.

Mellow suffered terrible bruising of her abdomen, chest and knee. There

was also proof that Mellow suffered three herniated discs that may require a future surgery. Beyond her physical injuries, Mellow has also suffered post-traumatic symptoms. The effect of Mellow's physical and emotional injuries caused her to lose her tennis scholarship.

In this lawsuit Mellow sought a general award of damages from Shaw's estate. [Shaw has since died.] While her medical bills were substantial, they were not presented to the jury. The estate generally denied fault and minimized the claimed injury.

The jury's verdict in Memphis was for Mellow and she took a general award of \$190,000. A consistent judgment was entered.

Auto Negligence - A drunk driver ran a red light and crashed into an elderly plaintiff – the collision left plaintiff with broken ribs and other soft-tissue injuries – this Nashville jury assessed \$7,500 in punitive damages

Doss v. Hester, 11-3935

Plaintiff: Thomas R. Lewis, *Hughes & Coleman*, Nashville

Defense: John E. Quinn, *Manier & Herod*, Nashville

Verdict: \$150,951 for plaintiff

Court: **Davidson**

Judge: Carol Soloman

Date: 1-16-13

It was 3-17-11 and Lena Doss, then age 84, traveled on Liberty Lane and Gallatin Pike. At this location Ronald Hester ran a red light – he struck Doss's vehicle. A significant collision resulted. Hester was driving drunk.

Doss was injured in the crash and suffered two broken ribs. She has also treated for soft-tissue injuries.

In this lawsuit she sought an award of compensatory damages from Hester. Predicated on Hester's drinking, Doss also sought the imposition of punitive damages.

This case was tried for three days in Nashville. While fault was admitted, the court's instructions asked if Hester's negligence caused injury to the plaintiff. The answer was yes. Turning to damages, Doss took medicals of \$23,451. The jury added \$30,000 each for past suffering, future suffering, past loss of ability to enjoy life and future loss of ability to enjoy life.

The jury continued and assessed \$7,500 more in punitive damages. The verdict totaled \$150,951 – a consistent judgment was entered. The court's instructions to the jury were interesting in that they included a specific charge that the jury was not to consider or speculate about insurance.

Bad Faith - An insurer for the manufacturer of a dump truck component was blamed for failing to settle a products death case in Ohio – that failure, this suit alleged, exposed the manufacturer to an excess verdict – at a first bad faith trial in 2010, the plaintiff prevailed and took damages in excess of \$2,000,000 – the insurer appealed and a new trial was ordered at the Sixth Circuit – in that second trial in 2013, the jury's verdict for the plaintiff more than doubled the first verdict

The Heil Co. v. Evanston Insurance, 1:08-244

Plaintiff: R. Bruce Barze, Jr. and M. Todd Lowther, *Balch & Bingham*, Birmingham, AL

Defense: W. Kyle Carpenter and William F. Clayton, *Woolf McClane Bright Allen & Carpenter*, Knoxville

Verdict: \$4,711,000 for plaintiff

Court: **Chattanooga**

Judge: Harry S. Mattice, Jr.

Date: 2-22-13

Heil Environment manufactured a dump truck bed that was installed on a dump truck. There was a tragic accident near Canton, OH on 4-5-05. Bob Ronske was standing near the elevated dump truck when it tipped over and fell upon him. Ronske was killed.

Thereafter Ronske's estate maintained a products liability action against Heil Environmental in Stark County, Ohio. Heil Environmental had \$1,000,000 policy limits through Evanston Insurance. It also had a \$500,000 self-insured retention that applied before the \$1,000,000 of coverage. [That \$500,000 applied as well to defense costs.]

Initially Heil Environmental hired Craig Pelini of Canton, OH to represent it. Thereafter the insurer took advantage of its right to select a

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