The Tennessee Jury Verdict Reporter

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June 2014 **Statewide Jury Verdict Coverage** **11 TJVR 6**

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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.

Negligent Security-Wrongful Death - The plaintiff had a confrontation in a gas station parking lot with a "rent-a-cop" – the conflict escalated and the rent-a-cop shot and killed the man – a Nashville jury found fault with the security firm (51%) and then (as admitted by the presiding juror) it multiplied the economic damages of $591,000 by 51% and then reduced that sum ($301,410) to the round number of $300,000

Albaugh v. Wackenhut Security, 13-2198

Plaintiff: Barry A. Cohen and Michael W. Gaines, *The Cohen Law Group*, Tampa, FL and Michael H. Rowan, *The Rowan Law Firm*, Nashville
Defense: Karl M. Braun and Jennifer M. Eberle, *Hall Booth Smith*, Nashville
Verdict: $300,000 for plaintiff less 49% comparative fault
Court: **Davidson**
Judge: Amanda McClendon
Date: 3-7-1

Timothy Albaugh, then age 28 and a military veteran and sometimes car salesman, was driving to Clarksville

jury the plaintiff's version of events was ridiculous.

The jury's verdict was for the defendants on all counts and Jarrett took nothing. While the instructions told the jury to consider damages only if finding for the plaintiff on liability, the jury went on and wrote "0.00" in the verdict form. A defense judgment was entered.

Auto Negligence - A disputed u-turn crash case was resolved for the defendant on liability

Moore v. Gallagher, 14789
Plaintiff: Travis B. Jones, Columbia
Defense: Christopher M. Jones, *LeVan Sprader Patton & McCaskill*, Nashville
Verdict: Defense verdict
Court: **Maury**
Judge: Stella Hargrove
Date: 5-12-14

The plaintiff, Bertie Moore, traveled southbound on the Nashville Highway in Columbia on 3-26-13. Moore attempted a u-turn into the northbound lanes. As Moore did so she was struck by Dana Gallagher who was proceeding from the opposite direction.

Moore has since treated for soft-tissue neck and back pain. Her medical bills were $3,877. In this lawsuit she implicated Gallagher's failure to keep a look-out. Gallagher defended that Moore failed to yield and turned directly into her path. She also noted Moore had a history of pre-existing neck and back pain.

This Columbia jury returned a verdict for Gallagher on liability finding she was not negligent. That ended the deliberations and Moore took nothing. A consistent judgment was entered.

Auto Negligence - In this disputed red light case, the jury found both drivers at fault and then in response to an odd instruction, it found the plaintiff was more at fault than the defendant – the odd part was that the amount was not quantified, the court's instructions just asking if the plaintiff's fault was more than that of the defendant

Harness v. Hemphill, 1-212-12
Plaintiff: Roger D. Hyman, *Hyman Carter & Patel*, Knoxville
Defense: John T. Johnson, Jr., *Kramer Rayson*, Knoxville
Verdict: Defense verdict
Court: **Knox**
Judge: Dale C. Workman
Date: 11-19-13

Gail Harness traveled on Charles Seivers Boulevard in Clinton on 3-26-12. Harness would later allege that at the intersection with Industrial Parkway, Christopher Hemphill turned into her path. Harness would recall she had the right of way with a green light. Hemphill, she thought, had run the red light.

It was a moderate collision and Harness has since treated for comminuted fractures of both her hand and foot. The incurred medical bills were $31,057. In this lawsuit Harness blamed Hemphill for running the red light.

His defense was simple. He explained he had a green turn arrow. It was an intractable fact dispute – both drivers could not have had a green light.

This Knoxville jury deliberated and answered "yes" that both drivers were fault. Judge Workman's instruction scheme had an additional charge that asked if the plaintiff's fault was greater than that of the defendant.

As the instruction was constructed, the jury was not asked to quantify the fault of the parties – it was only asked if the plaintiff's fault was more. The answer was yes and that ended the deliberations without the jury reaching damages. A defense judgment was entered.

Harness moved for a new trial and argued there was no competent proof she didn't have a green light. She also suggested the jury was in a hurry to conclude its deliberations and had not fully considered the case. The deliberations had lasted from 3:41 p.m. to 4:57 p.m., the theory being they acted in haste to get out of the courthouse by 5:00 p.m. Judge Workman denied the motion on 1-17-14. There was no appeal.

Auto Negligence - The plaintiff complained of soft-tissue symptoms after a minor parking lot collision

Watt v. Rogers, 12-718
Plaintiff: James R. Kennamer, *McMahan Law Firm*, Chattanooga
Defense: Kenneth W. Ward, *Trammell Adkins & Ward*, Knoxville
Verdict: $7,164 for plaintiff
Court: **Hamilton**
Judge: W. Jeffrey Hollingsworth
Date: 10-2-13

Michael Watt, then age 57, complained that on 10-31-11 he was injured in a parking lot collision. Watt blamed James Rogers for backing into his vehicle.

Watt has since treated for soft-tissue symptoms. In this lawsuit he blamed Rogers for crashing into him. Rogers defended the case and besides minimizing the claimed injury, he also implicated the plaintiff's own look-out.

The jury's verdict found Rogers solely at fault. Watt took medical

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