

# The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

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Statewide Jury Verdict Coverage

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**Auto Negligence - The plaintiff in a car crash case treated for adhesive capsulitis in his shoulder which included a surgical repair – however there was no injury at the scene of the crash and the plaintiff didn't treat until a scheduled check-up three weeks later – despite this a Murfreesboro jury awarded the plaintiff \$305,000 in non-economic damages which represented 11.69 times the medical bills**

*Sniegon v. Kiefer*, 78601

Plaintiff: Christopher N. Coyne and Burke Keaty, *Morgan & Morgan*, Nashville

Defense: Matthew Moffitt, *Hudson Reed & Christiansen*, Murfreesboro

Verdict: \$333,530 for plaintiff

Court: **Rutherford**

Judge: J. Mark Rogers

Date: 5-4-23

Paul Sniegon was stopped in traffic in Murfreesboro on 7-15-20. He was driving a pick-up truck. A moment later he was rear-ended (at a slight offset angle) by Melissa Kiefer. The impact knocked Sniegon into the next vehicle. It was a moderate hit. Fault was no issue.

Sniegon complained of head and neck pain at the scene but he declined treatment. In fact he did not treat until three weeks later when he saw his family physician for a scheduled annual examination. At this time he first reported shoulder pain that he linked to the seat belt clenching down. His family physician offered physical therapy or an orthopedic referral.

Sniegon declined both.

Some four months later Sniegon treated with an orthopedist, Dr. Russell McKissick. The doctor diagnosed an adhesive capsulitis condition and recommended a steroid injection and physical therapy. After two rounds of treatment, Sniegon elected to undergo surgery.

McKissick performed the surgery and cut adhesive lesions in Sniegon's shoulder. McKissick linked the shoulder injury to the wreck and the development of adhesive capsulitis and then the resulting surgery. He also believed the injury was permanent. Sniegon's medical bills were \$28,530.

In this lawsuit Sniegon sought damages from Kiefer. That included his medical bills as well as non-economic damages in five separate categories, past and future suffering, permanent injury and past and future loss of enjoyment of life.

Kiefer's defense minimized the claimed injury and she noted that there was no shoulder injury at the scene. Her IME, Dr. Sean Kaminsky, Orthopedics, Hermitage, opined that if Sniegon had sustained an acute shoulder injury, he would have had significant pain within days of the crash. He also believed the adhesions in Sniegon's shoulder were related to diabetes.

This case was tried for two days. The jury was first asked if Sniegon had proven it was "more likely than not" that he suffered an injury. The

(Do not consider the question of fault or the allocation of fault. Do not reduce these damages by any percentage of fault you may have assigned to Plaintiff Emily Houston. It is the responsibility of the judge, after you return the Jury Verdict Form, to reduce the damages you award, if any, by the percentage of fault you assign to Plaintiff Emily Houston).

a. Economic Damages

Medical Expenses--Past	\$ <u>149,643.49</u>
Loss of earning capacity--Past	\$ <u>16,785.58</u>
Medical Expenses--Past (Baylor Houston)	\$ <u>737.00</u>

b. Non-Economic Damages:

Physical Pain and Mental Suffering--Past	\$ <u>0</u>
Physical Pain and Mental Suffering--Future	\$ <u>0</u>
Permanent Injury	\$ <u>0</u>
Disfigurement	\$ <u>0</u>
Loss of Enjoyment of Life--Past	\$ <u>0</u>
Loss of Enjoyment of Life--Future	\$ <u>0</u> <sup>08</sup>
TOTAL:	\$ <del>149,643.49</del> <u>167,166.07</u>

7. What if any, damages are awarded to Plaintiff John "Joey" Houston?

(Do not consider the question of fault or the allocation of fault. Do not reduce these damages by any percentage of fault you may have assigned to Plaintiff Emily Houston. It is the responsibility of the judge, after you return the Jury Verdict Form, to reduce the

*The Verdict Form in Houston v. Byars*

led to significant complications including pneumonia and sepsis. Little Baylor also suffered minor injuries in the crash.

Houston filed this lawsuit against Byars and her own UM carrier, All American Financial Insurance. The insurer was silent at trial. Houston sought medical bills, lost earning capacity and non-economic damages. Her husband (Joey) presented a derivative consortium. Baylor also sought an award of damages.

Houston built her case through a plaintiff's IME, Dr. William Kennedy, Orthopedics, Jonesborough. He confirmed the injury and linked it to the crash. He also addressed the elephant in the room, that is, Houston had a prior disc herniation that was related to a 2009 volleyball injury. Kennedy explained this crash aggravated that pre-existing condition and led to the surgery.

The defense of the case had several prongs. The first was to contest

liability. While Byars conceded some fault, she argued that Houston too was partially to blame because of her speed and failure to keep a look-out. The defense also contested causation regarding the injury.

This case was tried for three days in Knoxville. The jury found Byars solely at fault. Then on the issue of damages, Houston took medicals of \$149,643 plus \$16,785 more for lost earning capacity all as stipulated

However the jury wrote "0" for each of six categories of non-economic damages for Houston. It also rejected her husband's consortium claim. The verdict for Houston totaled \$166,166. Finally Baylor took medicals of \$737 as stipulated but nothing for non-economic damages. A consistent judgment was entered for the plaintiffs for \$167,166 and that ended the case - there were no post-trial motions.

**Case Documents:**

- [Jury Verdict/Instructions](#)
- [Final Judgment](#)