

The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

August, 2006

Statewide Jury Verdict Coverage

3 TJVR 8

Unbiased and Independently Researched Jury Verdict Results

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This important bound volume, 273 pp., has just been published, and is ready for immediate delivery. It includes detailed analysis of every kind of case in 2005, 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 426 reported cases in 2005, easily referenced by region, style, result and attorney.

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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.

Medical Negligence - A pain block for spinal osteoarthritis didn't go well – instead of lasting a few minutes, it went on for 90 minutes and when it was over, the elderly patient was paralyzed from the waist down – she died months later, her estate blaming her descent and ultimate demise on error in administering the pain block
Russell v. Mays, CT-004649-02

Plaintiff: Al H. Thomas, Memphis
Defense: Albert C. Harvey and Craig C. Conley, *Thomason Hendrix Harvey Johnson & Mitchell*, Memphis
Verdict: Defense verdict
Court: **Shelby**
Judge: D'Army Bailey
4-6-06

On 8-12-01, Charlene Russell, age 73, was treating for spinal osteoarthritis. Her pain management doctor, Kit Mays, had scheduled a spinal block. It was expected to last just a few minutes. Ultimately it took ninety minutes.

When it was over, Russell's legs were paralyzed – the injury was related to a blood clot on her spine. Russell did not

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Here's a look at the Products Liability Report – this report, along with all
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The 2005 Products Liability Report

*This report summarizes the products liability verdicts in 2005
Cases sorted from highest to smallest verdict.*

<u>County-Case No.</u>	<u>Verdict</u>	<u>Defect</u>	<u>Summary</u>
Davidson-78	\$105,500,000	Auto	An infant rear-seat passenger in a Chrysler minivan was killed when the seat in front of him broke and that passenger collided with him.
Shelby-143	\$56,278,000	Auto	Two were killed in when a Chrysler minivan was involved in a head-on crash. The liability theory criticized pillar strength and seat belts.
Cumberland-424	\$10,000,000	Auto	Plaintiff was left a paraplegic when the seat in her Ford Escort broke in a collision.
Dickson-329	\$3,003,000	Auto	Plaintiff was badly burned when her Hyundai Excel suddenly caught on fire.
Knoxville-222	Defense	Auto	An well-known chef was left a paraplegic in a Pontiac roll-over.
Bradley-423	Defense	Auto	Plaintiff linked the crash of a Ford F-150 to wheel separation.
Knoxville-221	Defense	Auto	A family of four was killed in a tragic interstate crash when their Ford F-350 pick-up burst into flames after being rear-ended.
Hickman-328	Defense	Auto	Plaintiff suffered an optical injury after an airbag went off – she blamed her injury on the airbag for inflating too aggressively.
Nashville-77	Defense	Industrial	A chemical plant worker was burned when liquid phosphorus when a safety valve malfunctioned.

Products Liability Totals and Averages

<u>Year</u>	<u>Cases</u>	<u>Win-Loss%</u>	<u>Aggregate Awards</u>	<u>Plaintiff's Average</u>	<u>Average Verdict</u>
2005	10	5-5 50.0%	\$182,264,602	\$36,452,920	\$18,226,460

improve and died four months later of pneumonia. Her estate linked her decline and ultimate death to error by Mays.

Plaintiff's expert, Dr. Barry Feinberg, Pain Management, St. Louis, MO (also a lawyer), was critical of Mays for performing the block at all because of Russell's underlying vascular condition. There were also criticisms of the technical performance of the block.

Mays defended that Russell was a proper candidate for the block and that the block was administered consistent with the standard of care. While the result was unfortunate, Mays called it a complication, one that was a recognized risk of the surgery. The defense expert was Dr. Phillip Green, Pain Management, Memphis.

This death case was resolved by a Memphis jury. The verdict was for the doctor and the estate took nothing. A defense judgment followed.

Auto Negligence - Non-economic damages in a minor stop sign crash were eight times the awarded medicals

Hix v. Samon, 04-J-236

Plaintiff: William F. Roberson, Jr., Cookeville

Defense: Herbert J. Sievers, III, Nashville

Verdict: \$6,200 for plaintiff less 10% comparative fault

Court: **Putnam**

Judge: John J. Maddux, Jr.
12-6-05

There was a disputed four-way stop sign crash in Cookeville on 4-2-04. It occurred at the intersection of 7th Street and Mahler Avenue. The plaintiff, Susan Hix, age 32, alleged that Rebecca Samon, came to the stop sign – she then went through the intersection without looking.

A minor collision resulted. Hix has since treated for a soft-tissue injury. In this suit, she sought damages from Samon. Samon defended on fault, also minimizing the claimed injury.

Fault was mixed – the jury assessed 90% to the defendant, the remainder to Hix. Then to damages, she took medicals of \$350 plus \$500 more for loss of ability to enjoy life. Pain and

suffering was \$2,000, the jury adding \$3,350 more for property damage. The raw verdict totaled \$6,200 – it was reduced in the judgment to \$5,580. It has been paid.

Auto Negligence - Plaintiff linked a closed head injury to a right of way crash

McMillon v. Belue, 01-939

Plaintiff: John W. Chandler, Jr., Chattanooga

Defense: Daniel Ripper, *Luther Anderson*, Chattanooga

Verdict: \$158,000 for plaintiff

Court: **Hamilton**

Judge: Jacqueline E. Schulten
2-2-06

It was 6-6-00 and William McMillon, then age 42, traveled on Cummings Highway. Suddenly the elderly Ormond Belue pulled from Tulip Drive into his path. Belue had a limited recollection of the crash – seeing a glitter in his eye before the impact, there was some suggestion he sustained a sudden diabetic black-out. This was not a trial issue, Belue conceding fault.

McMillon, a TVA employee, has since treated for a closed head injury. It has manifested with headaches and memory loss. His neurologist, Dr. David Rankine, Chattanooga, linked his ongoing post-concussive symptoms to the crash.

In this lawsuit, McMillon sought damages from Belue. Belue defended and pointed to proof that plaintiff's symptoms were more likely related to an arachnoid cyst. [Plaintiff's expert disagreed.]

The verdict was for the plaintiff and he was awarded \$158,000. A consistent judgment followed.

Belue has moved for a new trial and/or for remittitur. Besides arguing the verdict was excessive, he was also critical of the injury causation proof, again citing the arachnoid cyst. Without the court ruling on the motion in the record, an order of satisfaction followed for the plaintiff.

Auto Negligence - Plaintiff sustained a broken finger in a chain reaction rear-ender – the verdict for plaintiff was nearly double her incurred medicals

Payne v. Starnes, 04-202

Plaintiff:

Defense: Herbert J. Sievers, III, Nashville

Verdict: \$6,000 for plaintiff

Court: **Davidson**

Judge: Barbara Haynes
5-17-06

On 2-7-03, Louise Payne, then age 49, traveled on Gallatin Road. She stopped in traffic, a vehicle in front of her coming to a sudden stop. Behind Payne, another vehicle stopped – fourth in the line was Danielle Starnes, a teenager.

Starnes struck the third car who was then forced into plaintiff. In the impact, Payne sustained a broken middle finger. Her medicals were \$3,816.

Starnes admitted fault and defended on damages. In that regard, she cited that on the date of the wreck, an x-ray was negative for a fracture.

Tried to a jury on damages only, Payne took a general award of \$6,000. A judgment in that sum followed. Payne subsequently moved for a new trial, calling the award of damages inadequate. The motion was denied and the judgment has been paid.

Auto Negligence - Knocked off the road by the defendant and into a tree, the plaintiff sustained a fractured foot

Chesser v. Cherry, 13138

Plaintiff: J. Polk Cooley and Jennifer E. Raby, *The Cooley Law Firm*, Rockwood

Defense: Glenn R. Walter, *Lewis King Krieg & Waldrop*, Knoxville

Verdict: \$30,000 for plaintiff

Court: **Roane**

Judge: Russell E. Simmons, Jr.
1-27-06

Mildred Chesser, then age 62, was a passenger with Luverna Wicks on 6-21-03 on U.S. 70 in Rockwood. A moment later and while stopped to turn left, they were violently rear-ended by Bobby Cherry. The wreck knocked the Chesser vehicle off the road and into a tree.

Chesser was knocked out in the crash – she also sustained a broken foot. Her