

The Alabama Jury Verdict Reporter

The Most Current and Complete Summary of Alabama Jury Verdicts

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Statewide Jury Verdict Coverage - Published Monthly

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Alabama's Jury Verdict Reporter Since 2001

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Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts in Alabama including circuit, presiding judge, parties, case number, attorneys and results.

Medical Negligence - An elderly and disabled woman was repeatedly admitted to the hospital for treatment of infected pressure sores on her buttocks; when the woman subsequently died of cardiopulmonary arrest due to septic shock, her estate blamed her death on the hospital's alleged mismanagement of her care

Estate of Lofton v. Springhill Memorial Hospital, 20-902228

Plaintiff: J. Allan Brown, *Law Office of J. Allan Brown, LLC.*, Mobile; James J. Dailey, *James J. Dailey, P.C.*, Mobile; and Joe Carl "Buzz" Jordan, *Buzz Jordan, P.C.*, Mobile

Defense: Bryan D. Smith and Matthew W. Smith, *Armbrecht Jackson, LLP.*, Mobile

Verdict: \$2,000,000 for plaintiff

Circuit: **Mobile**, 8-18-23

Judge: Michael P. Windom

By September of 2018, 68 year-old Emma Lofton was unable to walk and had been bedridden for two years. During that time Lofton had developed pressure sores on her left and right buttocks. On 9-8-18, she was admitted to Springhill Memorial Hospital in Mobile for treatment of her sores that had become infected.

Lofton was discharged from the hospital slightly over two weeks later on 9-28-23. Upon being discharged she was noted to have "unstageable decubitus ulcer." This is a type of bed sore caused by prolonged pressure on a singly area, resulting in a loss of oxygen and blood flow to the tissue.

Lofton was readmitted to the hospital a little over three weeks later on 10-17-18 for the same problem. She was discharged five days later on 10-22-18. After the

passage of another week, Lofton was admitted one final time to the hospital on 10-30-18.

On this last occasion it was noted that Lofton had been experiencing gradually worsening confusion and disorientation that had begun the day before her admission. Six days later, on 11-5-18, Lofton died. Her identified cause of death was cardiopulmonary arrest due to septic shock, kidney injury, and infected decubitus ulcer.

Lofton's estate filed suit against the hospital and several members of the medical team who had been involved in her care. The estate ultimately settled with most of the defendants for a total of \$600,000 and dismissed them from the case.

The litigation continued solely against Springhill Memorial Hospital. The estate criticized the hospital for failing to manage Lofton's care properly. Had the hospital given Lofton proper treatment, such as repositioning her every two to four hours on a pressure reducing mattress, she would not have died.

The estate identified a number of experts in this case. They included Dr. John Schweiger, Critical Care, Tampa, FL. The estate also identified two nursing experts: Stephen Furman and Ann White. All the estate's experts were critical of the care and treatment Lofton had received from the hospital.

The case was tried in Mobile. The jury returned a verdict for the estate and awarded it damages of \$2,000,000 comprised entirely of punitives. The court applied a set-off of \$600,000 to account for the pro

Auto Negligence - A vehicle driven by an elderly woman drifted across the centerline and collided head-on with an approaching vehicle; defendant claimed she had lost consciousness due to suffering a heart attack while driving, and on that basis she pled a sudden emergency defense

Nolte v. Thompson, et al., 19-901429

Plaintiff: Patrick G. Montgomery, *Morgan & Morgan Alabama, PLLC.*, Mobile

Defense: Christopher L. George, *Christopher L. George, P.C.*, Mobile

Verdict: \$2,500,000 for plaintiff

Circuit: **Baldwin**, 9-20-23

Judge: Jody W. Bishop

Just before noon on 6-7-18, Christen Nolte was driving a 2014 Nissan Maxima as she traveled east on U.S. 98 in Baldwin County. At the same time, a vehicle being driven by 83 year-old Vivian Thompson approached from the opposite direction.

At a point between the intersections with Mill Avenue and C.R. 9, Thompson's vehicle drifted across the centerline and collided with the vehicle in front of Nolte. An instant after that initial collision, Thompson ran into Nolte's vehicle in a head-on crash.

Nolte suffered widely ranging injuries that she attributed to the crash. They included injuries to her right ankle, foot, knee, arm, shoulder, left shoulder and hip, head, neck, back, chest, and abdomen. The record does not reveal the nature of Nolte's medical treatment or the amount of her medical expenses.

Nolte filed suit against Thompson and blamed her for crossing the centerline and causing the crash. Additionally, Nolte presented uninsured/underinsured motorist claims against both Alfa Insurance and Progressive Insurance.

Alfa and Progressive opted out of the case. The litigation proceeded thereafter against Thompson. The identified experts for plaintiff included John McKinney, Vocational, Huntsville; Dr. Tim Osbon, Life Care Plan, Mt. Pleasant, SC; and John Bedsole, CPA, Mobile.

Due to a combination of her age and the after-effects of the crash, Thompson became incompetent to testify during the course of the litigation. Before reaching that stage, however, she had answered interrogatories that formed the basis of the defense theory of how the crash happened.

According to Thompson, she had no memory of the crash. However, during the approximately five weeks she spent in the hospital after the crash (including a month in the ICU) a doctor told her she had suffered a heart attack.

The exact timing of the alleged heart attack was unclear, even to Thompson herself. Nonetheless, it formed the core of the defense theory that she had suffered the heart attack while driving and thus lost consciousness and drifted into the oncoming lane. On that basis, Thompson pled a sudden emergency defense.

Nolte rejected this theory and argued there was no objective evidence she had suffered a heart attack at all, much less that she had suffered one while she was driving. If Thompson indeed had a heart attack, it could just as easily have been after the crash due to the trauma rather than before the crash.

The case was tried for three days in Bay Minette. The jury returned a verdict for Nolte and awarded her damages of \$2,500,000. The court entered a judgment for that amount. The court later granted Nolte's motion for costs of \$36,557.

Thompson herself died slightly more than two months after the trial

at the age of 89, yet the litigation continued without her. The defense team filed a motion for a new trial based on arguments that plaintiff's counsel had repeatedly violated certain orders in limine. The court denied the motion.

Case Documents:

[Jury Verdict](#)

[Final Judgment](#)

[Defense New Trial Motion](#)

[Plaintiff New Trial Response](#)

Fraud - A married couple hired a contractor to build them a house; after paying the contractor nearly \$90,000 for the work, the couple called a halt to the project due to growing concerns about over-billings and substandard work; the couple filed suit against the contractor on counts that included fraud, conversion, and wantonness; the jury found for the defense

Whitchurch v. Mulkey, et al., 21-900020

Plaintiff: *Pro se*

Defense: William M. Hawkins, Jr., *Buttram Hawkins & Hopper*, Centre; and Albert C. Palmour, Jr., *Palmour Law Firm*, Summerville, GA

Verdict: Defense verdict

Circuit: **Cherokee**, 8-9-23

Judge: Shaunathan C. Bell

In September of 2019, Darin and Julie Whitchurch were interested in purchasing a parcel of land onto which they could move a modular home. On 9-5-19 the couple attended a land auction during which they successfully bid on a 5.21 acre parcel of land in Cedar Bluff.

While the Whitchurches were at the auction, they were introduced to Michael Mulkey who, they were told, had experience in clearing land. After some discussion, the Whitchurches hired Mulkey to clear a portion of their newly purchased land and to grade and gravel an area for a driveway preparatory to the installation of a modular home.