

The Alabama Jury Verdict Reporter

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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.

Auto Negligence - An elderly driver and her passenger claimed to have suffered exacerbation of pre-existing conditions when they were rear-ended after stopping in traffic due to a fallen tree

Pate, et al. v. Combs, 20-900347

Plaintiff: Frank Ozment, Mountain Brook

Defense: Amanda Graham, *Gaines Gault Hendrix, P.C.*, Birmingham

Verdict: Defense verdict

Circuit: **Walker**, 3-13-24

Judge: Gregory M. Williams

On 11-26-18, the elderly Miriam Tidwell (then in her early 70s) was driving east in a van on 19th Street in Jasper. Tidwell's passenger that day was Michelle Pate, who was some twenty years younger than Tidwell. Behind the Tidwell van was a vehicle being driven by Matthew Combs and owned by Combs Broadcasting, Inc.

The parties offer differing accounts of what happened next. According to Tidwell and Pate, they came upon a large tree that had fallen into the middle of the road. Tidwell slowed to a stop and then turned slightly to the left and waited for oncoming traffic to clear so she could drive around the tree. An instant later, Combs rear-ended the Tidwell van.

Both Tidwell and Pate claimed to have suffered exacerbation of pre-existing conditions. More specifically, Tidwell complained of injuries to her neck and back. Pate claimed injuries to her neck, back, and right knee. The record does not reveal the amounts of Tidwell's or Pate's medical expenses.

Tidwell and Pate filed suit against Combs and blamed him for crashing into them. Although plaintiffs also named Combs Broadcasting, Inc. and

Alfa Insurance in the case caption as co-defendants, the body of the complaint made no specific claims against either of those two entities.

Alfa Insurance opted out of the case, and the court granted a defense motion to dismiss Combs Broadcasting, Inc. on grounds of failure to state a claim. The litigation proceeded thereafter solely on the claim against Combs individually.

Interestingly, it seems that Pate is an attorney, and she represented both herself and Tidwell during much of the litigation. However, Combs's counsel eventually filed a motion to have Pate disqualified as counsel for plaintiffs on the ground that she was prohibited from serving as an attorney in a case wherein she was also a key witness.

The court granted the motion to disqualify and ordered Pate to retain counsel or face the dismissal of her claim. Pate complied with the order, and attorney Ozment took over the representation of plaintiffs from that point onward.

For his part, Combs offered his own version of how the crash happened. According to him, both vehicles were in motion when the tree suddenly fell on top of and in front of his vehicle. He slammed on his brakes and found that the tree was so large he could not open his driver's side door to investigate.

Combs then backed up in order to extricate himself from his predicament. He took photos of the tree and the damage. However, he claims that as soon as the tree fell a man with a chainsaw appeared in the road and began cutting up the tree. Thus, the photos do not show the scene in its original condition.