

# 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.

**Insurance Agent Negligence - A couple who's homeowner's insurance policy had been cancelled were led to believe by their insurance agent that the policy had been reinstated; when plaintiffs' house was destroyed in a freak accident a year later and they found that in fact there was no such policy, they blamed their insurance agent for misleading them and for failing to get them the required coverage**

*Brown v. Dukus, 19-900679*

Plaintiff: Howard Y. Downey, *Downey Law, P.C.*, Birmingham  
Defense: C. David Stubbs, *Stubbs Sills & Frye, P.C.*, Anniston

Verdict: \$71,400 for plaintiff on negligence claim; defense verdict on fraud claims

Circuit: **Calhoun**, 3-14-24

Judge: Timothy C. Burgess

On 6-10-17, Dedric and Tonja Brown purchased a home located at 348 Shadecrest Drive in the town of Eastaboga. The purchase was financed with a mortgage from a company called Jackson Mortgage. At some later time the mortgage was sold to FirstBank Mortgage.

As part of the closing process on the property, the Browns arranged for the purchase of homeowners insurance with the assistance of Jamie Dukus, an insurance agent. Dukus arranged for the policy to be issued by Alfa Insurance.

Shortly after the closing on the house, the Browns were notified that Alfa Insurance declined to approve the policy. Alfa Insurance notified the Browns of this fact on 9-6-17 and issued them a check to refund the premiums they had paid.

The Browns contacted Alfa and

Dukus and were given to understand that the cancellation of the policy was due to the Browns' failure to submit a home inspection report. The Browns responded by submitting the required report to Dukus and to Jackson Mortgage.

According to the Browns, Dukus told them the policy would be reinstated upon submission of the inspection report, and they didn't need to do anything else. They claim he explained that henceforth the payments for the insurance policy premiums would be included in the mortgage payments. Thus, the Browns believed their home was once again insured.

Slightly less than a year later, on 7-6-18, a freak accident occurred in which a dump truck ran into the house and rendered it uninhabitable. The house was so severely damaged that it ultimately had to be torn down.

The Browns promptly contacted Alfa Insurance to make a claim for their loss under the policy. When they did so, they were informed there was no such policy, and they were therefore not insured for the loss.

The Browns filed suit against Dukus, Alfa Insurance, Jackson Mortgage, and FirstBank Mortgage on various counts. The court subsequently granted summary judgment for Alfa Insurance, Jackson Mortgage, and FirstBank Mortgage and dismissed them from the case.

The litigation proceeded thereafter solely against Dukus. Plaintiffs blamed him for failing to obtain insurance for their home and for misleading them into believing that

**Products Liability - The plaintiff alleged her hip replacement component (the Pinnacle system manufactured by DePuy) failed because the so-called liner was too weak, which led to its failure and then revision complications**

*Ahmed v. DePuy Orthopedics*, 1:22-190  
Plaintiff: John D. Richardson and Abby M. Richardson, *Richardson Law Firm*, Fairhope

Defense: Joseph B.P. Babington, *Helmsing Leach Herlong Newman & Rouse*, Mobile, Terri L. Bruksch, *Barnes & Thornburg*, Indianapolis, IN and S. Eric Rumanek, *Troutman Pepper Hamilton Sanders*, Atlanta, GA

Verdict: Defense verdict on liability  
Federal: **Mobile**, 6-6-24

Judge: Kristi K. DuBos3

Pamela Ahmed, then age 61, had a long history of hip pain. She consulted in 2020 with her orthopedist, Dr. Todd Engerson. He recommended a hip replacement surgery. His favored component was the Pinnacle system, which is manufactured by DePuy Orthopedics of Warsaw, IN.

The hip replacement surgery was performed on 11-4-20, and it was an ostensible success. However it had failed within a few weeks. Engerson performed a revision surgery on 3-1-21. Ahmed developed an infection complication during the surgery. She later suffered two hip dislocations that June and August. Ahmed has continued to complain of pain and a permanent disability.

Ahmed (a Mobile resident) sued DePuy in state court. She alleged the Pinnacle system product breached an implied warranty of merchantability in that it was either not suitable or not fit for the ordinary purpose of a hip replacement system. Her criticism was that the liner system was too weak (the weakest of the three competitors in the field) and

susceptible to “liner disassociation,” which is exactly what occurred in this case.

What did that mean? The liner essentially fractured and led to the hip replacement. Ahmed’s proof was that 20 or so years ago, DePuy had weakened the liner, which led to its failure. Particularly, she argued there were just six tabs (as opposed to 12) holding the liner in place.

Ahmed’s expert on the purported defect were Richard Edwards, Engineer, Birmingham, AL and Dr. Kenneth Sands, Orthopedics, Melbourne, FL. Ahmed incurred medical bills of \$156,952. If she prevailed on her implied warranty of merchantability claim, she could be awarded medical bills, pain and suffering, and mental anguish.

DePuy first removed the case to federal court on diversity. The company defended on the merits and argued that its system was properly designed and was fit for the intended purpose. The defense believed the best proof of this was that the plaintiff’s surgeon (Engerson) still uses it today and believes it is fit for the purpose.

DePuy also described the Pinnacle system as performing well and enjoying a 98%-plus success rate at 10 years. Moreover, the system met all industry and FDA standards. Why, then, had it failed? DePuy cited Ahmed’s deformed spinal anatomy (she had a serious motor vehicle accident in the 1980s) as well as the placement of the femoral cap placed stress on the system.

DePuy’s experts at trial were Leanne Turner, Mechanical Engineer (an employee); Dr. Roy Crowninshield, Mechanical Engineer, Fletcher, NC; and Dr. Steven Barrington, Orthopedics, Montgomery, AL.

This case was tried for four days in Mobile. The instructions asked if the hip replacement system was not

suitable *or* not fit for its ordinary purpose. The jury said “no” on liability and then did not reach separate questions that asked if Ahmed was “harmed” because the system was not suitable or to measure her damages. A defense verdict reflected the verdict for DePuy.

**Case Documents:**

[Pretrial Order](#)

[Plaintiff Expert Report \(Edwards\)](#)

[Defense Judgment as a Matter of](#)

[Law](#)

[Jury Verdict](#)

[Order of Trial](#)

[Final Judgment](#)

**Breach of Contract - A subcontractor on a home renovation project claimed he was not paid for the work his subcontractor had done on painting the home’s interior; the homeowner and general contractor claimed the work was substandard and had been left incomplete**

*Walls Complete, LLC. v. Presto, et al.*, 21-000065

Plaintiff: Eric J. Artrip, *Mastandon & Artrip, LLC.*, Huntsville

Defense: Robert S. Presto, Huntsville  
Verdict: \$7,418 for plaintiff; defense verdict for plaintiff on defendants’ counterclaim

Circuit: **Madison**, 11-1-23

Judge: Claude E. Hundley, III

In the early months of 2021, Trevor Cole was the owner of a home located at 2603 Whitesburg Dr. S in Huntsville. The home needed some renovation, and Cole hired a company called Augustus Homes, LLC. to do the job.

Presto, who also appears to be an attorney, is one of the operators of Augustus Homes. Although some of the pleadings in this case describe Presto as one of the owners of the company, other pleadings indicate that Presto’s wife, Sabrina Presto, is