

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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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 - A man developed a life-threatening atriopharyngeal fistula followed by sepsis after undergoing an ablation procedure to treat an irregular heart rhythm; plaintiff blamed this outcome on his cardiac electrophysiologist for negligently recommending the ablation procedure and not getting plaintiff's informed consent

May v. Osorio, et al., 21-902602

Plaintiff: Justin C. Owen, *Bodewell, LLP.*, Birmingham; William S. Stone and James W. Stone, *The Stone Law Group Trial Lawyers, LLC.*, Atlanta, GA

Defense: Joseph S. Miller and Joseph L. Reese, Jr., *Starnes Davis Florie, LLP.*, Birmingham

Verdict: Defense verdict

Circuit: **Jefferson**, 8-19-24

Judge: Javan J. Patton

In early 2018, Michael May developed an atrial fibrillation condition, also known as an irregular heart rhythm. On 9-9-19, May consulted on the matter with Dr. Jose Osorio, a cardiac electrophysiologist employed by Alabama Cardiovascular Group, P.C. in Birmingham.

May had sought out Dr. Osorio for a second opinion regarding treatment of his condition. Despite May having been completely asymptomatic for the previous eighteen months, Dr. Osorio recorded in his notes that May was symptomatic with a significant decrease in his functional capacity.

Based on this evaluation, Dr. Osorio determined that May was a candidate for an atrial fibrillation ablation procedure. This procedure makes use of either heat or cold to

cause small scars in the heart tissue, thus blocking faulty signals and regularizing the heart rhythm. This procedure happened to be Dr. Osorio's specialty.

Dr. Osorio performed the ablation procedure on May the following day at Grandview Medical Center in Birmingham. The procedure was completed without incident. However, May contacted Dr. Osorio some nine days later on 9-19-19 with complaints of chest pains. Dr. Osorio did not examine May on that occasion but did tell him his symptoms were not related to the ablation procedure.

May's symptoms continued to worsen, and on 9-30-19 he visited a pulmonologist complaining of intermittent episodes of chest pain and shortness of breath. A chest x-ray revealed a spot on May's lungs. His treatment consisted in a prescription for an antibiotic. Additionally, May contacted Dr. Osorio's office to provide an update on his condition.

Less than two weeks later on 10-11-19, May was disembarking from an airplane in Atlanta when he collapsed at the gangway exit. May was taken to a local hospital where he suffered multiple strokes. On 10-17-19 a CT scan revealed he had developed an atriopharyngeal fistula – i.e., an abnormal connection between the esophagus and the left atrium of the heart. This is a rare and life threatening complication of atrial fibrillation ablation procedures.

May underwent surgery to repair the damage to his heart and esophagus. He subsequently

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Alabama Jury Verdict Reporter*

Case Style _____

Jurisdiction _____ Case Number _____

Trial Judge _____ Date Verdict _____

Verdict _____

For plaintiff _____ (Name, City, Firm)

For defense _____ (Name, City, Firm)

Fact Summary _____

Injury/Damages _____

Submitted by: _____

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Cox defended the case and denied any wrongdoing. He also filed a counterclaim against Griffith and blamed the crash on him. Thus, each of the parties had two sets of attorneys: one as plaintiff and one as defendant.

The record is unclear on this point, but it appears that the case may have been tried only on the counterclaim. That is, by the time of trial Cox was identified as the plaintiff while Griffith was identified as the defendant.

In any event, the case was tried for two days in Grove Hill. The jury returned a verdict for Griffith, and Cox took nothing. The court entered a judgment that reflected the verdict. Griffith filed a post-trial motion for costs, and the court granted the motion in the amount of \$2,202.

Case Documents:

[Jury Verdict](#)

[Final Judgment](#)