

The Alabama Jury Verdict Reporter

The Most Current and Complete Summary of Alabama Jury Verdicts

May, 2024

Statewide Jury Verdict Coverage - Published Monthly

24 A.J.V.R. 5

Alabama's Jury Verdict Reporter Since 2001

In This Issue

Baldwin County

Medical Negligence - Defense verdict p. 1

Federal Court - Birmingham

Reverse Race Discrimination - Equal

Protection - \$1,645,000 p. 2

Equal Pay Act - Defense verdict p. 6

St. Clair County

Auto Negligence - Defense verdict p. 3

Wilcox County

Underinsured Motorist - \$320,000 p. 4

Madison County

Auto Negligence - Defense verdict p. 4

Lauderdale County

Fraud - \$307,889 p. 4

Etowah County

Auto Negligence - Defense verdict p. 7

Federal Court - Mobile

Insurance Contract - For plaintiff p. 7

Notable Mississippi Verdict

Covington County, MS

Auto Negligence - \$100,000 p. 8

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 was admitted to the hospital with difficulty breathing; when he coded and died three days later his estate blamed his death on repeated failures by the hospital's medical staff to monitor his oxygen intake

Estate of Dunn v. Thomas Hospital, 21-900188

Plaintiff: Joseph F. McGowin and Jennifer B. Jayjohn, *Cunningham Bounds, LLC.*, Mobile

Defense: A. Edwin Stuardi, II, Russell C. Buffkin, and Karen T.

Luce, *Helmsing Leach Herlong Newman & Rouse, P.C.*, Mobile; and Susan Cassidy Cooley, *Schell Cooley Campbell, LLP.*, Addison, TX

Verdict: Defense verdict

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

Judge: Jody W. Bishop

On 5-21-20, Patrick Dunn, Sr. was experiencing shortness of breath. As his condition worsened, Dunn was taken by ambulance to the emergency room at Thomas Hospital in Fairhope. His oxygen level at that time was measured as being in the normal range.

Dunn was admitted to the hospital with a diagnosis that included respiratory failure and congestive heart failure. He remained in the hospital for the next three days until 5-24-20 when he again began to have difficulty breathing.

Dunn was determined to have low oxygen saturation, and at approximately 1:35 pm he was placed on a BiPAP machine to assist his breathing and increase his oxygen saturation. Over the next several minutes Dunn's oxygen saturation level continued to drop.

The technician in charge of monitoring Dunn's condition did not

inform anyone about the continued decline in Dunn's oxygen saturation level until 1:52 pm. By that time some seventeen minutes had passed.

At 1:54 pm it was discovered that although Dunn was wearing the BiPAP mask, the machine itself was turned off. Dunn was then placed on high-flow oxygen as the code team arrived. Two minutes later at 1:56 pm, it was discovered that the high-flow apparatus was in "stand-by" mode and was not delivering any oxygen.

At 2:00 pm, Dunn coded and was found slumped over while sitting up in bed. He had no pulse and was pronounced dead six minutes later at 2:06 pm. The entire episode, from the moment Dunn was placed on the BiPAP machine to the moment that he was pronounced dead, spanned only about thirty minutes.

Dunn's estate filed suit against Thomas Hospital and criticized its medical team for repeated failures in monitoring Dunn's oxygen intake. The hospital defended the case and denied its treatment of Dunn constituted a breach of the standard of care.

There was interesting motion practice in this case. At one point during the litigation the hospital filed a motion for a judgment as a matter of law based in part on an executive order signed by Governor Ivey. That order granted immunity from liability to healthcare providers for patients' deaths arising from or connected with COVID.

The hospital also sought immunity under the Alabama Coronavirus Immunity Act (i.e., the "ACIA") that had been passed by the legislature. That statute also conferred immunity