

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

September 2024

Statewide Jury Verdict Coverage

25 IJVR 9

Unbiased and Independently Researched Jury Verdict Results

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Notable Kentucky Verdict

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

Medical Malpractice - Two cardiologists were criticized for misdiagnosing plaintiff and recommending implantation of a pacemaker that she did not need; it turned out that one of the cardiologists was sued by Hans Poppe in a mass action involving multiple cases in London, KY, and was later criminally convicted for performing exactly the same kind of unnecessary surgeries on other patients – that doctor asserted his 5th Amendment right against self-incrimination in this case, did not provide discovery responses before trial and ultimately this New Albany jury did not hear from him – ultimately both defendants were exonerated at trial

Stewart v. Rumisek, et al.,

22C01-1908-CT-1271

Plaintiff: Hans G. Poppe and Scarlett Kelty, *The Poppe Law Firm*, Louisville, KY

Defense: Mark E. Hammond and Rachel Dalton Dearmond (for Rumisek), and David S. Strite (for Chalhoub), all of *O'Bryan Brown & Toner, PLLC.*, Louisville, KY

Verdict: Defense verdict on liability
County: **Floyd**, Circuit

Judge: Maria D. Granger, 8-16-24

On 5-30-14, Kimberly Stewart presented to the ER at Kentuckiana Medical Center in Clarksville with complaints of headaches and an episode of fainting. Stewart was admitted to the hospital for assessment. The following day on 5-31-14 Dr. Anis Chalhoub, a cardiologist and employee of

Cardiovascular Specialists, P.S.C., was called in for a consult.

Chalhoub diagnosed Stewart with vasovagal syncope (simple faint) with bradycardia (i.e., slow heart beat). Based on this diagnosis, Chalhoub informed Stewart that he would simply change her medication and monitor her. It appears that Chalhoub also sought a second opinion from cardiothoracic surgeon, John Rumisek.

Rumisek came to a different conclusion, he believed Stewart had a problem with the electrical conduction system in her heart known as Sick Sinus Syndrome that could only be fixed with a pacemaker. Rumisek documented in the record he concurred with Chalhoub, so there is some disagreement in the record as to whether Chalhoub changed his diagnosis after speaking with Rumisek. In any event, Chalhoub told Stewart if she does not get the pacemaker she will die.

On 6-2-14 Rumisek performed the pacemaker implantation surgery at Kentuckiana Medical Center. The following day a different surgeon was called in to perform a second surgery to correct a misplacement of the pacemaker lead. The surgical site thereafter became infected. Rumisek then performed a third surgery over a month later on 7-18-14 for debridement of the infected site and move the pacemaker under the muscle

Some two years later on 7-1-16,

Raul Guevara, Neuro-Ophthalmology, Merrillville.

TownPlace Suites defended the case and denied Blanchard's claims. The hotel also disputed the nature, extent, and causation of Blanchard's claimed injuries. Finally, defendant implicated Blanchard's own fault for the incident.

The identified defense experts included Jeffrey Schroeder, Engineer, Cuyahoga Falls, OH; Dr. Bruce Growick, Vocational Rehabilitation, Columbus, OH; and Alex Constable, Damages Valuation, Hudson, OH. Schroeder offered the opinion that the condition of the hotel's parking lot did not present any hazard and was not in violation of any building codes. Growick and Constable agreed that Blanchard's claimed injuries would have little to no impact on her expected earning capacity.

The case was tried for four days in Fort Wayne. During the presentation of evidence, the jury asked a number of questions. They included the following: "Was [sic] drugs or drinking involved the night before?" The record does not reveal the answer to the question.

The jury deliberated for just short of five hours before returning a verdict in which fault was allocated 32% to TownPlace Suites and the remaining 68% to Blanchard. Based on the allocation of fault, the court entered a defense judgment.

Ed. Note - There is no evidence of it in the record by a 68-32 fault assessment generally indicates a quotient verdict.

Judge Avery issued an order the day after the trial directing Attorney Brandon Yosha to appear for a show cause hearing why he should not be sanctioned for his behavior "at the

conclusion of the trial." The record (and the judge's show cause order) do not describe that behavior. The hearing was conducted on 8-26-24 and the next day, Judge Avery entered a separate order finding that order issued that day and the "associated comment" be deleted from the record. The associated comment is apparently lost to the sands of time and the resolution of the "show cause hearing" is unknown.

Case Documents:

[Jury Verdict](#)

[Final Judgment](#)

[Show Cause Order](#)

Auto Negligence - Defendant admitted fault in a rear-end crash case but disputed the nature, extent, and causation of plaintiff's claimed injuries

Darnell v. Dawson,
45D10-2203-CT-244

Plaintiff: David S. Gladish, *Gladish Law Group*, Highland

Defense: Christine Reisner Bond and Taylor A. Poulos, *Kopka Pinkus Dolin, P.C.*, Carmel

Verdict: \$27,424 for plaintiff

County: **Lake**, Superior

Judge: Rehana R. Adat-Lopez,
2-27-24

In the afternoon of 1-3-22, Natalie Darnell was driving west on Ridge Road in Highland. Behind her and also traveling west was a vehicle being driven by Carrie Dawson. When Darnell stopped for a red light at the intersection with Prairie Avenue, Dawson rear-ended her.

The record does not reveal the nature of Darnell's claimed injuries. However, it is known that her medical expenses came to \$33,971 billed and \$17,424 paid. That is, Darnell's medical providers wrote

off \$16,547 of her medical expenses and accepted the lesser amount as payment in full.

Darnell filed suit against Dawson and blamed her for causing the crash. Dawson admitted fault for the crash but disputed the severity of the impact. According to Dawson, she simply "rolled into" the rear of Darnell's vehicle in an impact that was too minor to have caused a compensable injury. On that basis Dawson disputed the nature, extent, and causation of Darnell's claimed injuries.

The case was tried for two days in Crown Point solely on the issue of damages. The jury returned a verdict for Darnell and awarded her damages of \$27,424. The court entered a judgment for that amount, and Dawson has satisfied it.

Case Documents:

[Pretrial Order](#)

[Jury Verdict](#)

[Final Judgment](#)

Medical Malpractice - A woman underwent a laparoscopic procedure to treat an ovarian cyst and pelvic adhesions; she later claimed that during the procedure her ob-gyn perforated her bladder and failed to identify and timely treat the injury

Phillips, et al. v. Perkins, et al.,
49D12-2106-CT-19444

Plaintiff: Kelley J. Johnson, *Law Office of Kelley J. Johnson*, Indianapolis; and Katherine Franke, *Broadwing Legal*, Indianapolis

Defense: Laura K. Binford and Beau Browning, *Riley Bennett Egloff, LLP.*, Indianapolis

Verdict: Defense verdict on liability

County: **Marion**, Superior

Judge: Patrick J. Dietrick, 7-25-24

In October of 2017, Robyn Phillips was experiencing pelvic pain. On 10-

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