

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

October 2025

Published in Louisville, Kentucky Since 1997

29 K.T.C.R. 10

Comprehensive Statewide Jury Verdict Coverage

Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts including circuit, division, presiding judge, parties, case number, attorneys and results.

Medical Negligence - The plaintiff was treated by his family practice doctor for an infection and upon review of symptoms, the doctor performed an EKG that reflected a cardiac abnormality – the doctor ordered the plaintiff for a stress echocardiogram in two weeks – the plaintiff died of an apparent sudden cardiac event (there was no autopsy) nine days later and before the echocardiogram – his estate alleged in light of the troubling EKG that the doctor should have immediately referred the plaintiff to the ER for a cardiac consult where the plaintiff would likely have had a cardiac catheterization and other treatment – the doctor replied there was no emergency at the visit (the plaintiff didn't have chest pain) and it was reasonable to make the referral

LeMaster v. Dubocq, 21-2998

Plaintiff: Melissa Thompson

Richardson and Thomas Wright,

Richardson Law Group, Lexington and

Chadwick N. Gardner and Jake C.

Grey, II, *Gardner Law*, Prospect

Defense: Clayton L. Robinson and

Jonathan D. Weber, *Robinson & Weber*, Lexington

Verdict: Defense verdict on liability

Court: **Fayette**

Judge: Julie M. Goodman

Date: 7-17-25

Gary LeMaster, age 50 and of

Winchester, worked for many years in IT at the UK Medical Center. LeMaster, who was a star offensive lineman on Cumberland University's 1988 football team was known as a gentle giant. He'd been married to his wife (Vicki) for 28 years.

LeMaster had an appointment on 10-2-20 with his family practice physician, Dr. David Dubocq of Family Practice Associates in Lexington. He was treated for an ear infection and congestion. Dubocq had seen LeMaster two months earlier for similar symptoms. Dubocq treated the ear infection with antibiotics.

Dubocq also reviewed LeMaster's overall condition. His BP was 159/93 and LeMaster reported shortness of breath with exertion. Dubocq took an EKG in light of LeMaster's cardiac risk

factors which included obesity, hypertension and Type II diabetes. Dubocq read the EKG as abnormal in light of an earlier 2019 EKG and it was suggestive of a prior cardiac event.

Dubocq appreciated the finding was significant but did not consider it an emergency. LeMaster didn't have chest pain and wasn't in distress. He made an appointment for LeMaster to have a stress echocardiogram two weeks later. LeMaster never made it t

On the morning of 10-11-20 (five days before the stress test) LeMaster was getting ready for Zoom church. He suddenly collapsed. EMS was called and were told that LeMaster had worsening pain in the hours before he collapsed. He was taken to

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A Historic Kentucky Verdict

Products Liability - The famous 1994 Prozac trial arising from the Standard Gravure mass shooting – the parties entered a secret settlement during the trial to sabotage the result and later lied to the court about it – the trial judge (Potter) sought to get to the bottom of it and after a trip to the Kentucky Supreme Court, he almost did before a new trial judge on the case (Potter recused) lost interest and it fizzled out

Fentress et al v. Eli Lilly, 90 CI-6033
Plaintiff: Paul L. Smith, Dallas, TX
Defense: Edward H. Stopher, *Boehl Stopher & Graves*, Louisville
Verdict: Defense verdict on liability
Jefferson County
Judge John Potter
December 12, 1994

September 14, 1989 was an ordinary day in Louisville at the Standard Gravure printing company. The 68-year old company specialized in printing large color catalogs and advertisements. It had been a tense time at Standard Gravure recently for several reasons. First technological and competitive issues had cut into company profits. There was also a fire some ten months earlier. Finally the unionized workforce at Standard Gravure was working without contract. In spite of those problems, no one could predict what would happen that morning.

Joseph Wesbecker, age 47 and a former Standard Gravure pressman, entered the company's third floor executive offices and started shooting with a Chinese-made AK-47 rifle. The rampage lasted thirty minutes and Wesbecker moved through the labyrinth of corridors in the building. Wesbecker killed eight and injured twelve more before taking his own life. The mass murder spree shocked

and saddened Louisville. It was one of the nation's first mass workplace shootings.

Wesbecker it would be learned almost immediately, had a history of mental illness. He believed Standard Gravure had "done him wrong" and that he suffered injuries because of the chemicals he breathed in at work. Wesbecker also had a history of manic depression and had attempted suicide several times. At the time of his death, Wesbecker was taking an antidepressant, Prozac. The drug is manufactured by Eli Lilly. The plaintiffs in this litigation would represent the families of Wesbecker victims as well as the surviving wounded.

The plaintiffs sued Eli Lilly and alleged the drug was improperly tested and linked to a propensity by users to harm themselves and others. The litigation was hard fought and the jury trial began a little more than five years later in Louisville in October of 1994.

The bespectacled Judge John Potter was on the bench. Potter had an unusually bookish bearing for a judge and at the same time, an incredibly heightened sense of propriety and courtroom decorum. He was no trial novice. Potter had presided over countless civil and criminal trials. His role in the case, which is odd for any civil litigation, would become prominent in an unexpected way.

The plaintiffs in this case were represented by attorney Paul Smith from Texas. Smith was the lead counsel for the steering committee that was pursuing Prozac cases across the country. Eli Lilly's lawyer was from Louisville, Edward Stopher. Stopher had a long and distinguished reputation as a trial stalwart. He was unusually tough and combative. Stopher was no trifling lawyer.

This Prozac trial was a bellwether of sorts. There were other similar claims related to Prozac that were pending around the country. This would be the

first to go to trial. The stakes were extremely high, not just for the Standard Gravure plaintiffs, but also for Eli Lilly. Were it to lose in Louisville, the pressure would be on it to settle the pending cases. By contrast, if Eli Lilly secured a win at this trial, the 160 other plaintiffs around the country (and others who might still sue) would be discouraged from pursuing Prozac litigation. The issue was VERY important to Eli Lilly as Prozac was its top selling drug, generating two billion in sales in the prior year.

Attorney Smith gave his opening statements to the jury on the last day of September in 1994. The courtroom was crowded with the victims and their families. Smith told the jury that Eli Lilly failed to submit negative findings about Prozac to the government during the testing period. Clinical trials also excluded persons who were at risk for suicide, the pool essentially being gamed. Even the German government had originally banned the drug, only allowing its sale with a specific warning about a suicide risk. Eli Lilly had a simple defense. Wesbecker was described as a madman. Attorney Stopher also told the jury that despite Wesbecker having made numerous threats against Standard Gravure, no one at the company did anything.

The trial itself was mostly ordinary with the exception that it was lengthy. The proof was introduced over some 2 ½ months. Most civil trials are resolved in a few days. A week is a long trial. Two weeks is really long. A trial lasting more than two months is exceptional.

Things began to get interesting in December when Judge Potter made a key ruling concerned a defense motion. Eli Lilly had sought to exclude evidence of how it handled another drug, Oraflex. The plaintiffs

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