

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

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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, a young mother of three, died of pneumonia after a stem cell transplant to treat cancer – her estate alleged error by her hematologist (he managed the transplant) for failing to prophylactically prescribe antibiotics in light of her immune-suppressed condition and to prevent the infection – the jury found fault and awarded \$44.49 million which was assessed 40% to the defendant

Phelps v. Emmons et al, 20-888

Plaintiff: Chadwick N. Gardner, John C. Grey, II and Savannah Nolan, *Gardner Law*, Prospect and Mark D. Alcott and Justin L. Duncan, *Harlin Parker*, Bowling Green

Defense: Ashley J. Butler and Robert J. Shilts, *Stoll Keenon Ogden*, Louisville for Emmons and U of L Hospital James P. Grohmann and Noel R. Halpin, *O'Bryan Brown & Toner*, Louisville for U of L Physicians Clay M. Stevens and Kristen Fowler, *Napier Gault Schubach & Stevens*, Louisville for U of L Hospital (d/b/a James Graham Brown Cancer Center)
Verdict: \$44,490,345 for plaintiff assessed 40% to remaining defendant Emmons and U of L Physicians; Defense verdict on agency claim against U of L Hospital

Court: **Jefferson**

Judge: Eric Haner

Date: 8-29-23

Ashley Phelps, then age 30 and of Morgantown, was diagnosed with

Hodgkin's Lymphoma in 2014. She underwent a course of chemotherapy and her cancer went into remission. Phelps showed symptoms three years later and in early 2018, it was learned her cancer had returned and was at an advanced stage.

Phelps consulted with Dr. Robert Emmons, a hematologist specializing in oncology at U of L Hospital (d/b/a James Graham Brown Cancer Center). Emmons was an employee of U of L Physicians. Emmons performed a stem cell transplant on Phelps in May of 2018.

At the time of Phelps' discharge, Emmons did not prescribe prophylactic antibiotics (Bactrim) to address the risk of Pneumocystis Pneumonia (PCP). This is especially so because the stem cell transplant left Phelps in an immunocompromised state. There was also proof that U of L Hospital guidelines indicated that such therapy should be instituted.

Phelps returned home and was cared for by her regular oncologist, Dr. Vidya

Seshadri. Over the summer of 2018, Seshadri was in contact with Emmons. At several medical visits (from June into July), Phelps showed signs of lung inflammation as evidenced by an abnormal CT of her lung.

Phelps was seen by Emmons in his office on 7-26-18 with respiratory complaints. Emmons did not consult a pulmonologist nor did he access the CT scan taken a few weeks earlier in July. A month later Phelps saw Emmons again for her 100-day check-up at the request of Seshadri.

Two days after that on 8-19-18 Phelps was in respiratory failure at a Bowling Green hospital and she was intubated. Then on 8-23-18 as her condition worsened, Phelps was life-flighted to U of L Hospital. She was given a high dose of bactrim and transferred to Jewish Hospital. Phelps continued to decline and died on 9-5-18. Her death was blamed on a PCP infection.

*****The KTCR Blog*****

We launched our blog last fall and it stays current on litigation news for Kentucky lawyers. We have regular updates on verdicts, motions and opinions.

It's good stuff that you won't read about anywhere else.

The verdict form from the big case . . . yesterday.

We probably published it there.

[The KTCR Blog](http://juryverdicts.net/ktcrblog)

(juryverdicts.net/ktcrblog)

Truck Negligence - The plaintiff (in a cargo van) was knocked off the Gene Snyder by a the empty truck trailer of a jack-knifing big rig – the crash left him chronic neck and back pain, his doctor suggesting a future repair surgery is likely – the jury awarded the plaintiff medical bills of \$78,218 plus \$400,000 more for pain and suffering representing a 5.11 suffering to medicals ratio

Kader v. One Agil Transportation,
22-1267

Plaintiff: Jonathan B. Hollan, *Sam Aguiar Injury Lawyers*, Louisville

Defense: Daniel C. Mack and R. Craig Reinhardt, *Reinhardt & Associates*, Lexington

Verdict: \$728,218 for plaintiff

Court: **Jefferson**

Judge: Susan Gibson

Date: 11-9-23

Kassem Kader, then age 36 and an installer of commercial fire suppression systems, traveled on the morning of 8-26-21 on the Gene Snyder (I-265) near the Billtown Road exit. It was typical heavy rush hour traffic. Kader slowed down in the flow

of traffic to 45 mph or so. Behind him on the Gene Snyder was Anyi Ramos who was driving a big rig for One Agil Transport. He failed to appreciate that the traffic was slowing. When Ramos did he hit the brakes hard. This caused his tractor-trailer to jack-knife.

The sliding and out of control tractor-trailer slid into the rear of Kader's cargo van. The impact knocked the van from the slow lane across the fast lane and into the emergency lane. It was a hard hit. Fault was contested in the litigation but ultimately One Agil conceded fault.

Kader was shaken at the scene but did not treat until he presented to an ER five hours later. He has since complained of cervical, lumbar and hip injuries. His course of care beyond the ER over the next two years was 25 physical therapy visits at Aptiva Health under the care of Dr. Michael Casnellie, Orthopedics.

Casnellie also provided steroid injection and medial branch blocks. He also indicated that Kader may require a future spinal surgery. Kader

continues to suffer from chronic pain caused by the crash itself as well as the aggravation of degenerative conditions.

In this lawsuit Kader sought damages from Ramos and his employer. Kader's medical bills were \$78,218. The defense conceded the first \$24,961 so in the court's instructions, the jury could award no less than \$24,961 and no more than \$78,218. He sought \$641,771 for future care as quantified by a life care plan expert, Laura Lampton. He could also be awarded \$1.8 million for his pain and suffering.

One Agil's defense of the case minimized the claimed injury. It relied on an IME expert, Dr. Christopher Stephens, Orthopedics, Lexington. The expert believed that Kader had suffered a temporary soft-tissue injury and aggravation of degenerative conditions. Thus Stephens conceded the first 12 physical therapy visits were reasonable as well as the first injection. However he opined the remaining care was not medically necessary. Finally Stephens concluded that Kader has no permanent injury or restrictions.

This case was tried for three days. The jury considered damages only. Kader took his medicals as fully claimed of \$78,218 plus \$250,000 more for in the future. His pain and suffering was \$400,000. The verdict totaled \$728,218.

It is not believed that there will be a final judgment. The parties entered a secret Hi-Lo agreement. While the parameters of the Hi-Lo are not known, the verdict is within its limits.

Case Documents:
[Plaintiff Trial Memorandum](#)



The jack-knifed trailer and the plaintiff's cargo van after the crash