Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

December 2024 **Published in Louisville, Kentucky Since 1997** **28 K.T.C.R. 12**

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.

Personal Care Home Negligence - **The plaintiff, age 84 and a resident at a personal care home for just 12 days, died of a cerebral hemorrhage after suffering several falls at the home – his estate blamed the personal care home for failing to follow its own head injury policy and otherwise being understaffed – the personal care home replied that it was well-staffed, the plaintiff received outstanding care and the brain bleed was a sudden and unpreventable event – a Greenup jury awarded pain and suffering damages of $5.16 million and $16.6 million more in punitive damages**

Qualls v. The Lantern at Morning Pointe, 18-552
Plaintiff: Lisa E. Circeo and Hannah R. Jamison, *Circeo Law Firm*, Lexington and Ross F. Mann, *Ross Mann Law*, Lexington
Defense: Emily W. Newman and Paul A. Dzenitis, *Dzenitis Newman*, Louisville
Verdict: $21,942,146 for plaintiff
Court: **Greenup**
Judge: Brian C. McClure
Date: 10-23-24

Donald Qualls, then age 84 and a retired union carpenter, was suffering from worsening dementia. He was living at home and had a private sitter. A decision was made on 10-20-17 to move him into the exquisitely named, The Lantern at Morning Pointe Alzheimer's Center for Excellence. That was a lot to say that The Lantern is a personal care home. It is not a nursing home or medical facility and residents do not receive skilled nursing care.

It is described as providing residential memory care. The Lantern (it is private pay) is operated by Independent Health Ventures, a management company. Qualls (who was highly vulnerable and otherwise dependent on others for much of his care) was assessed as an appropriate candidate for The Lantern and was placed in its locked memory care unit. Qualls would only be there 12 days.

On Qualls' fifth day at The Lantern (10-25-17), he suffered a fall and struck his head. It was a hard hit. He was taken to the hospital and received several stitches for a four cm laceration. A CT scan was clear and Qualls was returned to The Lantern.

Qualls fell again two days later (10-27-17) in the dining room. The following day (10-28-17) he fell in his room, having slipped in urine. A few days later on 11-1-17, Qualls' son (Kevin, he's an attorney) came to The Lantern and signed an agreement acknowledging his father had fallen several times but remained a good candidate for The Lantern. There was proof at this meeting that Qualls was not in distress and even laughed and told jokes.

The next morning on 11-2-17at 4:00 a.m., Qualls reported a headache. He was otherwise stable. That evening at 6:30 p.m., Qualls again had a headache. He was also agitated and restless. A decision was made to take him to the nearby ER at Our Lady of Bellefonte Hospital. A CT revealed a large bilateral subdural hematoma. As Our Lady didn't have neurosurgery present, Qualls was transferred to St. Mary's Medical Center in Huntington, WV.

By the time Qualls arrived at St. Mary's, the hematoma had herniated and blood began to place tremendous pressure on his brain. There was no treatment available. He died the next morning a little after noon.

In this lawsuit (pursued by his son), the Qualls estate alleged that The Lantern and IHP were negligent and that his negligence had led to his personal injury and death. The heart of the case went beyond simple fall prevention, but instead focused on The Lantern's failure to monitor Qualls post-fall and follow its own head injury policy.

A key element of this theory went to the timing of the head injury. The plaintiff's proof was that the serious brain bleed existed for several days before the herniation (perhaps as much as a week) and if The Lantern had followed its head injury policy and appropriately monitored and assessed Qualls, the brain bleed would have been identified and treated. Instead it went undetected until the sudden herniation at St. Mary's at which point the fatal die had been cast.

The plaintiff further alleged this course of events was no accident either. It was called a consequence of The Lantern having inadequate budget and staffing to meet the

Underinsured Motorist - The plaintiff linked a shoulder replacement surgery to a moderate rear-ender – while the plaintiff took damages of $49,931 against her UIM carrier, it was still less than the $50,000 UIM threshold and a defense judgment was entered

Dickerson v. State Farm, 22-1017
Plaintiff: Jeffrey T. Sampson, *The Sampson Law Firm*, Louisville
Defense: Renee G. Hoskins and Jared K. Hoskins, *Smith & Hoskins*, Louisville
Verdict: $49,931 for plaintiff
Court: **Jefferson**
Judge: Jessica Green
Date: 10-3-24

Melody Dickerson, then age 57 and a nurse manager at Baptist Hospital, was a passenger with her husband on 3-3-20. He was stopped on Blankenbaker Drive near Plantside. A moment later they were rear-ended by Duncan Jordahl. It was a moderate collision. Fault was no issue.Dickerson went to the ER that night and subsequently treated for shoulder pain. Some three years later in November of 2023, Dr. Scott McClure, Orthopedics, Louisville, performed a shoulder replacement surgery. McClure linked the surgery to the collision. Dickerson's medical bills were $135,280. She sought $864,719 more for pain and suffering, her total prayer for damages being an even $1,000,000.

Dickerson filed suit against Jordahl and her UIM carrier, State Farm. Jordahl settled and paid his $50,000 policy limits. Dickerson then continued to advance her UIM case to trial. For her to prevail against State Farm, she would have to exceed a $60,000 floor of coverage representing the $50,000 limits and PIP.

State Farm contested that the shoulder replacement was crash related. It looked to proof even from

The Dickerson vehicle

McClure that Dickerson had pre-existing advanced osteoarthritis. He had testified in his deposition that Dickerson would "probably" have needed the surgery anyway. State Farm also relied on an IME expert, Dr. Michael Moskal, Orthopedics, Sellersburg, IN.

The jury in this case deliberated for three days. Fault having been conceded, the only issue was Dickerson's damages. She took $24,965 of her medicals and then the exact sum (the odd number of $24,965) for her pain and suffering. The verdict (the verdict itself is not part of the court record) for Dickerson totaled $49,931. As Dickerson failed to implicate the State Farm UIM floor ($50,000 plus $10,000 in PIP), a defense judgment was entered.

Dickerson has since moved for JNOV relief. She argued the verdict was inconsistent as while the jury awarded McClure's entire medical bill for her shoulder surgeon ($24,965), it rejected the $99,787 hospital charge for the surgery. The motion argued for a full award of the medicals, or alternatively for a new trial on all issues. State Farm replied that the verdict was reasonable in light of Dickerson's pre-existing osteoarthritis. The motion was pending at the time of this report.

Case Documents:
Complaint
Plaintiff Trial Memorandum
Defense Trial Memorandum
Final Judgment
Plaintiff JNOV Motion
Defense JNOV Response