

# Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

February 2025

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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.

### Premises Liability - The plaintiff slipped on a puddle in a mall bathroom and suffered both a post-concussive syndrome and the aggravation of degenerative cervical and lumbar conditions

*Moss v. Kentucky Oaks Mall*, 20-583

Plaintiff: Kelli Lester

and Lauren Marley, Bowling Green, Andrew K. Asbridge, Paducah and Dion Moorman, Owensboro, all of *Morgan & Morgan*

Defense: William E. Pinkston, *Denton Law Firm*, Paducah

Verdict: \$1,837,756 for plaintiff

Court: **McCracken**

Judge: Joseph Roark

Date: 2-6-25

Dennis Moss, then age 60, was a patron on 1-14-20 at the Kentucky Oaks Mall in Paducah. He was in the bathroom. As Moss stood up from the toilet stall, he took two steps, slipped in a puddle of water and landed on his face. A witness at a nearby urinal heard the “smack” as Moss hit the floor. This same witness thought the sound was consistent with “someone was faking a fall.”

Moss was assisted and walked out of the bathroom. He wasn’t exactly sure why he fell initially. A security guard began an investigation and found a puddle of water in the stall that was Moss in. At deposition he described the

puddle as “football-sized” but at trial it was his recollection it was much smaller like a dollar bill. Moreover it was not near the toilet but rather under the toilet paper dispensary.

For his part Moss was treated at a Baptist Hospital in Paducah and was evaluated for a variety of injuries. An MRI and other tests were undertaken. He has since complained of three primary injuries. The first is a mild TBI and post-concussive condition that lasted some six months. It affected his memory, concentration and sleep.

Moss also complained of the aggravation of degenerative cervical conditions. He has ongoing chronic pain. His medical bills were \$492,685. A plaintiff’s expert, Dr. Camillo Castillo, Physical Medicine, Louisville, created a life care plan for Moss’ ongoing care. The future medicals were \$564,102.

In this lawsuit Moss alleged negligence by Kentucky Oaks in failing to either appreciate the spill or clean it

up in the exercise of ordinary care. While a custodian had been in the area (per surveillance) in the bathroom minutes before Moss fell, there was no evidence the custodian actually cleaned anything or did an inspection consistent with mall policies and procedures. The plaintiff’s best proof that there was a hazard was the security guard’s report that there was a puddle. Beyond his special damages as described above, Moss sought \$2,000,000 for his pain and suffering.

Kentucky Oaks disputed that Moss had even slipped because of a puddle. He wasn’t sure why he fell and in fact, never even saw a puddle. While it was true the security guard saw a “spot of water,” it was just 6 inches by 3 inches across. It was suggested that perhaps Moss stubbed his toe or even (as per the witness) that the fall was faked.

The mall also developed that it had acted reasonably in keeping the

INSTRUCTION # 5	INSTRUCTION #3
You will now determine from the evidence and award Dennis Moss a sum of money that will fairly and reasonably compensate him for each of the following items of damage you he has sustained as a result of his fall on January 14, 2020.	It was the duty of the Defendant, Kentucky Oaks Mall Company, LTD, by and through its employees, to exercise ordinary care, as defined in instruction #2, for customers like Dennis Moss. If you believe from the evidence presented to you that Defendant failed to comply with any duty it owed and that such failure was a substantial factor in causing Plaintiff's fall, you will find for Plaintiff. Otherwise, you will find for Defendant.
You shall disregard comparative fault at this time, if any.	Based on the evidence, do you believe that:
If you determine that Dennis Moss is entitled to recovery of damages for his injuries, your award shall include compensation for loss attributable or related to his pre-existing physical conditions, to the extent that such pre-existing condition was aroused or aggravated by the incident in question.	<input checked="" type="checkbox"/> 1. There was a liquid substance on the floor of Defendant, Kentucky Oaks Mall Company, LTD's restroom, and
Mr. Moss seeks the following damages:	<input checked="" type="checkbox"/> 2. That the liquid substance on the floor of Defendant, Kentucky Oaks Mall Company, LTD's restroom was a substantial factor in causing Mr. Moss' fall and injuries; and
<input checked="" type="checkbox"/> A. Past Medical Expenses (not to exceed \$492,685) \$ 492,685.00	<input checked="" type="checkbox"/> 3. That by reason of the presence of the liquid substance on the floor, that Defendant, Kentucky Oaks Mall Company, LTD's restroom floor was not in a reasonably safe condition for the use of its business in such, including Dennis Moss; and
B. Future Medical Expenses (not to exceed \$564,102.11) \$ 345,071.05	<input type="checkbox"/> 4. That the Defendant, Kentucky Oaks Mall Company, LTD's restroom floor in the exercise of ordinary care, should have discovered the liquid substance on the restroom floor in sufficient time to have corrected the condition or warned Dennis Moss of its presence before he slipped and fell.
C. Past, Present, and Future Pain and Suffering \$ 1,000,000.00	We, the jury, find the Defendant, Kentucky Oaks Mall Company, LTD, is liable by a preponderance of the evidence.
TOTAL: \$1,837,756.05	<input checked="" type="checkbox"/> YES
<i>Sharon Seldert</i> Forperson only, if unanimous	<input type="checkbox"/> NO

*The Moss v. Kentucky Oaks Mall verdict forms on liability and damages*

**Kentucky Trial Court Review**  
**February 2025**  
**Table of Contents**

**Verdicts**

**Jefferson County**

*Medical Negligence* - The plaintiff (she had a variety of co-morbidities including diabetes, heart disease, severe vascular disease, smoking and drug use) developed pressure ulcers during a hospital stay – her estate (it was not a death case) would blame the development of the pressure ulcers on the failure of hospital staff to take preventative measures to prevent those conditions and then to respond to them when they did develop – the hospital replied that appropriate skin care interventions were ordered and implemented and the plaintiff's deep tissue wounds (those were conceded) were described as unavoidable in light of her condition and the necessary constraints of her care and treatment -  
Defense p. 5

**McCracken County**

*Premises Liability* - The plaintiff slipped on a puddle in a mall bathroom and suffered both a post-concussive syndrome and the aggravation of degenerative cervical and lumbar conditions - \$1,837,756 p. 1

**Warren County**

*Auto Negligence* - A dentist on his Harley-Davidson was rear-ended while sitting at a red light – the collision left him with a broken tailbone as well as with a claimed lumbar disc injury that will require a future fusion surgery – the case was tried on damages only (the plaintiff didn't seek his incurred medicals) and he took \$10,000 for his past suffering, but nothing for either his future suffering or his medical bills -  
\$10,000 p. 3

**Anderson County**

*Festival Negligence* - A patron at a music festival used drugs and drove away from the festival under the influence of LSD and led police on a high speed chase that reached speeds of over 100 miles an hour – that driver (while being pursued) crashed into a car of teens leaving a high school football game and killing one of the teens and injuring two others – in this lawsuit the teens (the estate of the deceased and the two surviving teens) settled with some eight police defendants on a negligent police pursuit theory and then sued the organizer of the festival for negligence in permitting patrons to use drugs and drive away while intoxicated so as to endanger the public -  
Defense verdict p. 6

**Pulaski County**

*Medical Negligence* - The plaintiff alleged her bariatric surgeon mismanaged a slippage of her lap band which led to a dime-sized stomach perforation, sepsis and ARDS – the surgeon replied that the lap band was properly managed and the perforation was related to build-up from several prior abdominal surgeries - Defense p. 10

**Notable Tennessee Verdict**

**Nashville, Tennessee**

*Medical Negligence* - A son took his mother (age 78 and suffering from skin cancer, diabetes and other conditions) to a nursing home for a five-day respite stay – while the son (he was his mom's caregiver) gave her nurses clearly marked medications including insulin, she was not given the insulin – this led to a hypoglycemic event and his mom was hospitalized for five days – in this lawsuit the plaintiff alleged error by the nursing home in not giving her the medications (the nursing home admitted this) and the case was tried on damages -  
\$347,134 p. 11

**Notable Indiana Verdict**

**Clarksville, Indiana**

*Auto Negligence* - Plaintiff sought recovery for injuries she sustained in a crash that happened just outside Sellersburg; defendant denied fault and disputed plaintiff's claimed injuries -  
\$42,500 p. 12

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**Kentucky Trial Court Review**

Case Style \_\_\_\_\_

Jurisdiction \_\_\_\_\_ Case Number \_\_\_\_\_

Trial Judge \_\_\_\_\_ Date Verdict \_\_\_\_\_

Verdict \_\_\_\_\_

For plaintiff \_\_\_\_\_ (Name, City, Firm)

For defense \_\_\_\_\_ (Name, City, Firm)

Fact Summary \_\_\_\_\_

Injury/Damages \_\_\_\_\_

Submitted by: \_\_\_\_\_

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court's calendar report indicates the defendant is to prepare the final judgment.

**Case Documents:**

[Complaint](#)

[Defense Summary Judgment Motion](#)

[Plaintiff Summary Judgment](#)

[Response](#)

[Summary Judgment Order](#)

[\(Punitives\)](#)

[Defense Expert Disclosure](#)

[Plaintiff Trial Memorandum](#)

[Defense Trial Memorandum](#)

[Defense Directed Verdict Motion](#)

[Jury Verdict](#)