

# 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 - A teenage girl (on the cusp of graduating and heading off to college) died after developing aplastic anemia – in this lawsuit her estate linked her death to error by her dermatologist in prescribing a purportedly risky acne medicine (Accutane) for six months without properly monitoring the girl’s blood count as well as failing to inform the parents of the risks – the defense replied that the standard of care did not require complete blood counts during treatment and there was no causal link between the aplastic anemia and the drug, the condition only developing five months after the girl stopped taking it**

*Mathis v. Owen*, 20-358

Plaintiff: Glenn A. Cohen, Lynn M. Watson and Christopher A. Bates, *Seiller Waterman*, Louisville

Defense: Clay A. Edwards and Morgan N. Blind, *O’Bryan Brown & Toner*, Louisville

Verdict: Defense verdict on liability

Court: **Jefferson**

Judge: Annie O’Connell

Date: 2-28-25

London Mathis, then age 17, treated with Dr. Cindy Owen of Associates in Dermatology for severe acne for two years. In April of 2017, Owen recommended the girl begin a prescription of Isotretinoin which is

more commonly known as Accutane. Her parents (Carmen and Anthony) had reservations about the drug but Owen reassured them that she would perform periodic complete blood counts (CBC). Accutane (which has been used for 40 years to treat acne) has a risk of hematologic side effects – Accutane is no longer manufactured but Isotretinoin is manufactured and marketed under different brand names. Owen indicated she’d monitor the girl each month for side effects as well as pregnancy as there is a high risk of birth defects.

Mathis started the drug in May of 2017 – before beginning the treatment, she had a CBC in April and the results were normal. During the six months Mathis was on the drug, Owen did not order a follow-up CBC test.

Mathis returned for her first follow-up visit a month later. She complained of joint pain at this visit. There was no blood test taken at this time. Mathis returned a month later. Owen took blood tests but again not a CBC. This was repeated in July. At the girl’s monthly visit in August, there was no blood test at all.

Moving to September, Owen increased the dosage for Mathis from 40 mg to 60 mg. Mathis finished her six month script in October. She returned to Mathis for a post-script visit in November. There were no blood tests at this visit. From April to November, Owen did not order a CBC.

Mathis had her next scheduled visit with Owen in May of 2018. She would never make it. Mathis fell on 3-22-18 and was taken to Norton Children’s Hospital. She had alarmingly low white blood cell and red platelet counts

and was suffering from acute aplastic anemia. Mathis never left the hospital. She developed septic shock and despite being in critical care and receiving significant interventions, she died on 4-11-18. Mathis was now 18. It was a tragic death. She was to graduate a month later from Kentucky Country Day (she was a high school track star too) and was set to attend Clemson University and study genetics.

The Mathis estate (represented by her parents, Anthony a director at Norton Hospital and Carmen formerly employed at KCD) sued Owen and alleged negligence by her in two ways. First as Isotretinoin is a third tier potent drug in treating severe acne and has significant risks, it was incumbent upon her to run CBCs to monitor Mathis’ blood levels. It was argued that if Owen had done so, she would have discovered troubling blood cell counts and discontinued the drug.

The plaintiff also presented a separate informed consent count. The parents alleged that if fully informed of the risks that Owen didn’t plan to order CBC tests, they would not have begun Isotretinoin treatment in the first place.

The estate’s liability expert was Dr. Leon Kircik, Dermatology, Louisville. Kircik explained that while the risk of aplastic anemia was statistically low, CBC testing is easy and inexpensive. While the American Association of Dermatology standards do not require the testing, Kircik explains the best practice is to do the testing especially as the complications can

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*Auto Negligence* - The plaintiff complained of the aggravation of degenerative conditions after a right-of-way collision - the jury awarded the plaintiff damages of \$26,000 (\$10,000 in medicals and \$16,000 more for pain and suffering) all less 25% comparative fault - the plaintiff has since alleged the jury reached its verdict by a "quotient" method as evidenced by juror affidavits - \$26,000 p. 7

**Shelby County**

*Farm Truck Negligence* - A motorcyclist suffered very serious injuries (multiple fractures and internal injuries) when he crashed into a farm truck that blocked the roadway – the case was a law school exam question of sorts with a variety of twists and turns involving insurance, a Dec action as well as a "gratuitous agency" question – the jury ultimately had a simple enough case on liability and damages, awarding the plaintiff a total of \$1.729 million which included a relatively modest sum of \$500,000 for his pain and suffering - \$1,729,060 p. 3

**Bell County**

*Medical Negligence* - The plaintiff suffered a perforation injury during a biopsy secondary to a colonoscopy which led to her decline and death two days later – her estate blamed her gastroenterologist for attempting the biopsy in light of the risk of injury because the plaintiff had radiation colitis and her colon was markedly friable - Defense verdict p. 6

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**Floyd County (New Albany, IN)**

*Auto Negligence* - Plaintiff was injured in an intersection crash that happened when another driver ran a red light; the jury assigned fault 80% to the tortfeasor and the remaining 20% to plaintiff - \$150,000 p. 12

square in Glasgow on 2-26-22. It is owned by local businessman, Jeffrey Jobe. Hapney had been there many times before and was meeting his son that night.

As Hapney entered Yancey's, he had a sudden urge to urinate. He really had to go. The men's room was locked and there was a line at the women's restroom. There was no time to wait. He decided to go out through what he thought was a back door and relieve himself in a discreet area near the restaurant.

Hapney opened a small gate to what he believed was an exit. It was actually a gate that blocked steps to the basement. The area was not well lit. Hapney fell to the bottom of the steps. He suffered a mild TBI as well as an open and dislocated fracture of his index finger. Hapney was able to crawl to the top of the steps where women (still waiting in line for the bathroom) rendered aide to him.

Hapney has since undergone two repair surgeries on this index finger and thumb. He continues to have a "trigger" finger condition. His medical bills were \$56,717.

In this lawsuit Hapney sued Yancey's and alleged the premises were unsafe. He focused on the poorly lit entrance to the basement stairs, protected only by a small gate and directly adjacent to the rear exit, all of which purportedly led to his fall. If Hapney prevailed he sought his medical bills as well sums for his pain and suffering.

Yancey's denied fault for the incident or that its premises were not reasonably safe. It blamed Hapney for opening the gate to the basement and walking blindly into the dark peril, apparently all because he was in a hurry to urinate.

The case was originally assigned to the local presiding judge, John Alexander. Alexander, a regular customer at Yancey's, recused

himself and explained that as a regular customer, he knew many of the parties involved in the case. Judge Hendricks was appointed to preside over the case as a special judge.

The case was tried in Glasgow for two days and there was a brief pause in the trial because of bad weather. The jury's verdict (its not in the court record and only referred to on the court's calender order) was for Yancey's and Hapney took nothing. A final judgment has since been entered for the defendant.

#### Case Documents:

[Complaint](#)

[Plaintiff Trial Brief](#)

[Defense Trial Brief](#)

[Final Judgment](#)

#### **Tortious Interference - A paper distributor alleged a paper manufacturer went behind its back to interfere with an end paper user and otherwise disclose trade secrets**

*Veritiv Operating v. Phoenix Paper Wickliffe*, 5:21-170

Plaintiff: Dennis D. Murrell, Elisabeth S. Gray and Jennifer S. Barbour, *Gray Ice Higdon*, Louisville  
 Defense: Robert P. Johnson and Emily G. Montion, *Thompson Hine*, Cincinnati, OH

Verdict: \$8,000,001 for plaintiff

Federal: **Paducah**

Judge: Benjamin Beaton

Date: 3-5-25

Veritiv Operating is an Atlanta, GA based company that distributes paper products to printers and publishers. It is described as highly competitive in terms of pricing. Veritiv's role in the industry is to source paper products from manufacturers and then distribute them to large paper users on the other end.

The second player in this litigation drama is Phoenix Paper Wickliffe. It is a subsidiary of a Chinese

conglomerate named Shanying International. Phoenix Paper bought a Western Kentucky paper mill in 2019 and began operations. Phoenix Paper and Veritiv made a deal to distribute Phoenix Paper . . . paper. In a sense Veritiv served as the assistant to Phoenix Paper as the regional manager.

For several years Veritiv did distribute Phoenix Paper products. Phoenix Paper knew about Veritiv's proprietary and innovative pricing structure. Their agreement prohibited Phoenix Paper from disclosing this to the end customers.

There was proof that in 2021 Phoenix Paper had a new CEO. It was alleged that CEO went to an end user (Three Z) and revealed the pricing structure and terms. Three Z was then encouraged to buy Phoenix Paper products through a Veritiv Operating customer.

When Veritiv learned what was happening, it filed this lawsuit against Phoenix Paper and sought a temporary restraining order to prohibit Phoenix Paper from co-opting more of its end customers that used Phoenix Paper products. The trial court ultimately denied that motion in a sealed order. The order is included the case documents. Interestingly in this case many documents were sealed including not just the motion practice for summary judgment, but also the court's summary judgment order.

Beyond Veritiv's initial failed efforts for a temporary restraining order, it advanced several counts against Phoenix Paper. The first was that it had tortiously interfered with the Three Z relationship. The plaintiff also alleged misappropriation of Veritiv trade secrets and breach of contract. Beyond an award of compensatory damages, Veritiv also sought to impose punitive damages for Phoenix Paper's acting with