

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

May 2024

Published in Louisville, Kentucky Since 1997

28 K.T.C.R. 5

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, age 76, went in for a vascular bypass surgery on his lower right leg – the medical team instead performed the surgery on the left leg and realizing the snafu, the vascular surgeon reversed the left leg surgery and went on to perform surgery on the right leg – things did not go well and the otherwise healthy left leg was later amputated and the plaintiff's life dramatically altered – a Louisville jury found the vascular surgeon 70% at fault and assessed significant damages

Hall v. Dwivedi et al, 20-6486

Plaintiff: Chadwick N. Gardner, John C. Grey, II and Savannah R. Nolan, *Gardner Law*, Prospect and A.V.

Conway, II, *Conway & Keown*, Hartford

Defense: James P. Grohmann and Nicholas J. Davis, *O'Bryan Brown & Toner*, Louisville

Verdict: \$7,704,933 for plaintiff assessed 70% to Dwivedi and including \$1,000,000 in punitive damages; Verdict made additional finding ULP authorized or ratified Dwivedi's actions

Court: **Jefferson**

Judge: Sarah E. Clay

Date: 3-29-24

Jerry Hall, then age 76, treated in late 2019 with a vascular surgeon, Dr.

Amit Dwivedi of University of Louisville Physicians (ULP) for right leg pain. Dwivedi recommended a vascular surgery to improve blood flow. It involved harvesting a vein from Hall's groin to be used to bypass clogged arteries in his lower leg. Mobility was important to Hall, a long-time Central City resident, who did work in the community trapping and removing nuisance animals. Hall enjoyed the work and being outside and was well-known in his community for it.

Ultimately the surgery did not go as planned and Hall would undergo five surgeries within a month. The first was on 11-11-19 at Norton Hospital and Hall consented to a surgery on his right leg. Dwivedi was assisted in the surgery by a resident, Dr. Nathan Bodily and a CRNA, Amanda Rutledge. The medical team at Norton under Dwivedi's direction took the graft from the groin and inserted in Hall's left leg and not the right one.

Dwivedi instructed the resident to close the leg and initially spoke to the family to indicate things were going well. This was not quite true. Another doctor happened to look in on Hall and noticed the problem. They'd operated on the wrong leg. While Dwivedi was with the family he received a call informing him of the problem. He did not tell the family what had happened.

Dwivedi then performed a second surgery to "undo" and take apart the graft on the left leg and place it in the right leg. That grafting in the left leg was now a stump. The wife was emphatic that had she been told, she would not have consented for Dwivedi to go back in and operate on anything.

In this case the bypass on the left leg would have been preserved.

The third surgery then was to perform the appropriate graft on the right leg. Hall was discharged from the hospital now with two painful surgical legs. Over the next few weeks the wounds were slow to heal.

On 12-12-19, Dwivedi performed the fourth surgery. This time he harvested the vein from the right leg, and then in a fifth surgery, he completed a femoral bypass in the left leg which originally was not problematic. Following that surgery Hall had significant pain and it was so bad that on Christmas Eve, he returned to the hospital. The next day Dwivedi's on-call partner performed a surgery to repair a large 15cm hematoma at the site of graft, a ruptured pseudoaneurysm as well as treat an infection in the groin.

Hall underwent a difficult course over the next seven months. He was in an and out of the hospital with infection, slow-healing, poor blood flow and ultimately gangrene in the left leg that had been mistakenly operated upon. In July of 2020 to save his life from gangrene, Hall's left leg was amputated above the knee.

It was a devastating injury for Hall. He lives with his wife of 60-plus years in a tri-level home in Central City. He is mostly now confined to the lower level. While Hall has a prosthesis, it is difficult for him to attach and his mobility is very limited. He used to go on regular walks and attend church three times a week. Hall doesn't do that anymore and his lack of mobility

Kentucky Trial Court Review
May 2024
Table of Contents

Verdicts

Jefferson County

Medical Negligence - The plaintiff, age 76, went in for a vascular bypass surgery on his lower *right* leg – the medical team instead performed the surgery on the *left* leg and realizing the snafu, the vascular surgeon reversed the left leg surgery and went on to perform surgery on the right leg – things did not go well and the otherwise healthy left leg was later amputated and the plaintiff's life dramatically altered – a Louisville jury found the vascular surgeon 70% at fault and assessed significant damages - \$7,704,933 p. 1

Defamation - A legislative assistant to a Louisville Metro Council member alleged her employer defamed her by alleging she committed theft of public funds to several community members that interestingly included two sitting circuit court judges in Louisville who testified at trial they'd heard the remarks – the jury found the statements were defamatory and while rejecting any compensatory damages, the jury assessed punitive damages of \$1.00 - \$1.00 p. 5

Medical Negligence - A radiologist was blamed for misreading a chest x-ray and missing a developing lung cancer crisis – the theory alleged that when the cancer was identified nine months later, it had grown from Stage 1 to Stage 4 with a grim prognosis – the doctor replied that there was no cancer on the first x-ray and the cancer seen nine months later was a new and aggressive event - Defense verdict p. 10

Kenton County

Medical Negligence - A casting error on the plaintiff's foot (it was purportedly too high) at an orthopedic office was linked to a peroneal nerve injury and a resulting foot drop - Defense verdict p. 4

Washington County

Premises Liability - The plaintiff tripped on an unprotected conduit pipe at a gas station (it had existed in that location for 444 days) and sustained a cut to his shin that was stapled as well as hip and shoulder injuries – the jury found the defendant 55% at fault and awarded the plaintiff \$150,000 in special damages and \$20,000 more in punitives, but it rejected any award for pain and suffering - \$170,000 p. 7

Marshall County

Employment Retaliation - A pharmacy manager at a rural hospital alleged she was fired within days of alleging gender discrimination and indicating she would file an EEOC complaint – a Benton jury awarded her \$100,000 in economic damages (back pay and lost benefits) but rejected any award for her embarrassment and mental anguish - \$100,000 p. 9

Fleming County

School Bus Negligence - The plaintiff (in a Toyota sedan) was seriously injured when struck head-on by a school bus in a curve on a narrow rural road – the trial court curiously concluded that as the plaintiff was on the wrong side of the road, the plaintiff was not entitled to a sudden emergency *defense* and thus granted the defendant school bus driver a directed verdict - Directed verdict p. 11

Federal Court - Covington

Civil Rights - After the plaintiff was stopped for running a stop sign, the investigating officer was convinced the plaintiff had drugs in his rectum and allegedly inserted his finger into the plaintiff's rectum and manipulated his genitals – the plaintiff alleged this search was unreasonable and violated his constitutional rights - Defense verdict p. 12

Calloway County

Auto Negligence - The plaintiff and his wife (he's an eggshell plaintiff of sorts) complained of injuries after a very minor rear-ender in Murray – the jury considered damages only and rejected the plaintiff's case - Defense verdict p. 14