

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

June 2025

Published in Louisville, Kentucky Since 1997

29 K.T.C.R. 6

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.

Garbage Truck Negligence -

Five motorcyclists cruising on I-24 crashed in a slick sludge of treated human waste that leaked from an environmental garbage truck- one of the motorcyclists suffered a serious spinal injury and was airlifted to Vanderbilt, while the other four suffered minor to moderate injuries - the seriously injured motorcyclist entered a confidential settlement as the trial was to begin and the other four continued through to a verdict - while their medical bills were

modest (from \$2,307 to \$61,128), this jury awarded pain and suffering of \$3.5 million to one plaintiff and \$2.5 million more to the other three, the verdict exceeding \$11.08 million

McAlpin et al v. Freedom Waste, 23-33

Plaintiff: Brandon L. Peak,

Christopher B. McDaniel and John D.

Flowers, *Peak Wooten McDaniel &*

Colwell, Columbus, GA and Wm.

Kevin Shannon, *Bryant Law Center*,

Paducah

Defense: R. Sean Quigley, *Casey Bailey & Maines*, Lexington

Verdict: \$3,561,128 for McAlpin

\$2,507,318 for White

\$2,506,653 for Murdyk

\$2,502,307 for Hendriks

Court: **Lyon**

Judge: James R. Redd

Date: 5-29-25

It was 5-31-22 and five



The Freedom Waste truck with the leaking sludge at the scene

motorcyclists were on a cruise on westbound I-24 through Lyon County in far Western Kentucky. It was a clear day. The motorcyclists were Joseph Herring, Mark Murdyk, Jerry White, Joseph McAlpin and David Hendriks. There was proof the motorcyclists were all very experienced and were proceeding safely. They are church friends that hail from Decatur, GA and were on their way for a vacation ride to Colorado and back.

That same day James Watts was driving an environmental garbage truck for Freedom Waste. He'd picked up a commercial roll-off container filled with treated human wastewater from the Oak Grove sewer plant. Watts was transporting the container (also traveling on I-24) to a landfill in Mayfield. Watts contended the latch on the container's door was properly

secured.

The latch came loose and as Watts proceeded on I-24, thousands of gallons of human waste began to leak into the right lane. It was a gross, smelly and slick sludge that covered the interstate for approximately a half a mile. The sludge was dark colored and thus difficult to appreciate.

As the five motorcyclists drove through the sludge, they lost traction and then control of their motorcycles. All five crashed. Joseph Herring was most seriously hurt and suffered multiple spinal fractures as well as fractures to his ribs, hip and wrist. He was transported to Lourdes Hospital in Paducah before being airlifted to Vanderbilt. Herring underwent a complex surgical course

Kentucky Trial Court Review

June 2025

Table of Contents

Verdicts

Jefferson County

Bad Faith - A life insurance company denied a claim and cited that the decedent had died within the two-year contestability period – there was no legal basis for this as the policy was a replacement policy and thus the contestability period traced back to when the first “replaced” policy was issued – the insurer fully paid the policy limits days after the decedent’s widow sued, but she continued to press her claim for bad faith – while the insurer claimed it was all a mistake, the jury awarded the widow \$750,000 for emotional pain and suffering and \$8,000,000 more in punitives - \$8,750,000 p. 5

Lyon County

Garbage Truck Negligence - Five motorcyclists cruising on I-24 crashed in a slick sludge of treated human waste that leaked from an environmental garbage truck onto the highway – one of the five motorcyclists suffered a serious spinal injury and was airlifted to Vanderbilt, while the other four suffered minor to moderate injuries – the seriously injured motorcyclist settled as the trial was to begin and the other four continued through a verdict – while their medical bills were modest (from \$2,307 to \$61,128), this jury awarded pain and suffering of \$3.5 million to one plaintiff and \$2.5 million more to the other three, the verdict exceeding \$11.08 million - \$3,561,128, \$2,507,318, \$2,506,653 and \$2,502,307 p. 1

Kenton County

Medical Negligence - A radiologist was blamed for missing signs of a pending hernia crisis and reported to the ER doctor that there were no acute findings – the ER doctor then discharged the plaintiff who was dead a day later from a gastric perforation – the plaintiff’s theory alleged that if the radiologist had properly read the CT scan, the hernia could have been surgically repaired – the jury found a standard of care violation unanimously but by a 9-3 count, it rejected the case on causation - Defense p. 4

Jessamine County

Road Construction Negligence - The plaintiff suffered a C-6 facet fracture (undisputed) when she crashed into a large road construction vehicle (a broom sweeper used to clear debris after milling the road before it is paved) – the accident occurred when the plaintiff turned onto the road under construction (four-lane U.S. 27 in Nicholasville) there being fact disputes as to whether the road was properly marked to warn motorists - Defense p. 7

Clark County

Medical Negligence - The plaintiff suffered an inferior alveolar nerve injury secondary to the removal of wisdom teeth – in this lawsuit the plaintiff alleged error by her oral surgeon in, (1) not fully advising her that this surgery was risky because of her particular anatomy, and (2) relying on just a single panorex image instead of taking a CT scan and making a plan for this complex case - Defense p. 9

Barren County

Auto Negligence - The defendant pulled from a gas station parking lot (he was waved into traffic) and crossed two lanes of traffic before crashing into the plaintiff who was passing by – the jury found the defendant 90% at fault but made a modest award to the plaintiff (just \$1,493 of her claimed \$184,178 in medicals) and \$500 more for pain and suffering - \$2,413 p. 10

Pulaski County

Fire (Burning Negligence) - The plaintiffs’ lake house and surrounding at Cumberland Lake were destroyed by an illegal fire set by a contractor who was clearing land for the construction of more lake houses – the plaintiffs were compensated in part by their insurer including for the residence but in this lawsuit they sought additional damages for outbuildings, a stairway to the lake, loss of use of the lake house, aggravation and inconvenience as well as the imposition of punitive damages - \$156,400 p. 11

Historic Kentucky Verdict

Products Liability - Jefferson County - 1910 - \$4,050 p. 13

A Historic Kentucky Verdict

Products Liability

Shaffer v. Olds Motor Works

\$4,098 for plaintiff

Jefferson County

November 9, 1910

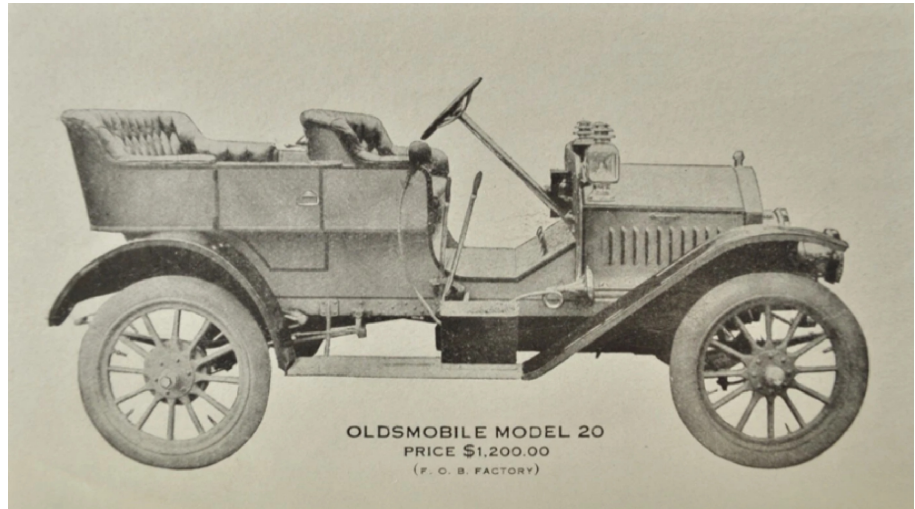
The products liability case is an interesting genre of tort law and it came a little late to the party. It was not an ancient tort as our forefathers didn't live in a world where consumer products were manufactured on a national or even global scale. That all changed at the start of the 20th century.

The automobile had been invented and it was now being mass produced. One of Kentucky's first product liability cases, would not surprisingly then, involve an automobile in the case of *Lucy Shaffer v. Olds Motor Works*.

Lucy Shaffer of Cincinnati and in her 20s, came to visit her aunt in Louisville in July of 1909. Lucy was a Smith College graduate and the daughter of a prominent Cincinnati lawyer, Frank Shaffer of the well-known Peck Shaffer firm. [Peck Shaffer was later absorbed by Dinsmore & Shohl.]

That afternoon Lucy joined her sister and aunt with a friend, William Colston, for a ride in an automobile. This was something of a novelty. A month earlier, Colston, who worked as a railroad superintendent, had bought a brand new Olds Motor Works sedan. Olds Motor Works, which had just been acquired by General Motors, was not yet commonly known as Oldsmobile.

Colston's car was a 1909 Model 20. Some 5,000 rolled off a Lansing, Michigan assembly line that year. Colston paid about \$1,200 for the car. Colston and the aunt rode in the front seat. Lucy and her sister were in the back seat.



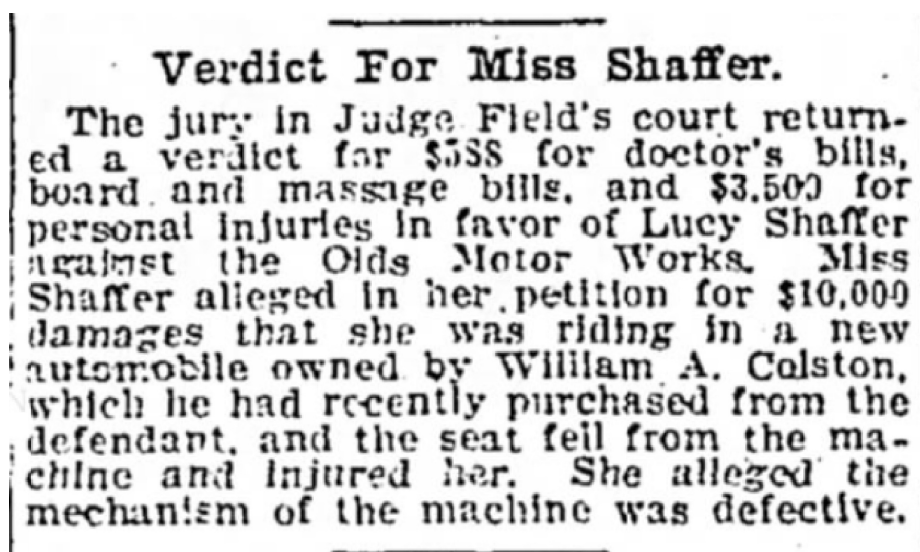
The Model 20 was a lot different than a modern vehicle. The rear seat was merely attached to a wooden box by an iron strap held in place by wooden screws. That was it.

Colston drove on Broadway Hill in East Louisville towards Bardstown Road. He wasn't speeding or otherwise driving in a reckless manner. It was just a cruise. Suddenly the rear seat (a so-called rumble seat) came loose from the box and Lucy was thrown from the car. She suffered a significant arm fracture in the collision. Lucy was a prominent enough (and her father too) Cincinnati citizen that the incident made the Cincinnati

newspaper the next day.

Six months later in January of 1910, Lucy sued Olds Motor Works and alleged the Model 20 was defective. Quite simply, the seat in the nearly new car should not have come loose unless it was insecurely fastened in the first place. While today that seems self-evident, this was a novel claim in 1910. It wasn't presented either by a chump lawyer. Lucy had hired Percy Booth, one of Louisville's most prominent lawyers, who would later enjoy a sixty-year legal career.

It took eleven months for the case to come to trial. A Louisville jury before Judge Field that November



The verdict report (such as it was) that appeared in the Courier-Journal