

# The Louisiana Jury Verdict Reporter

The Most Current and Complete Summary of Louisiana Jury Verdicts

May 2022

Statewide Jury Verdict Coverage

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## **Civil Jury Verdicts**

Timely coverage of civil jury verdicts in Louisiana including court, division, presiding judge, parties, case number, attorneys and results.

**Auto Negligence - The plaintiff complained of a lumbar disc injury (she may need a laminectomy) after a stop sign collision – the defense minimized the claimed injury and noted that the plaintiff, (1) had a gap in reporting low-back pain, and (2) suffered a prior lumbar compression fracture in 2009**

*Barrios v. Schudmak*, 783129

Plaintiff: Kenneth M. Miller, Loretta Hoskins and Brent P. Frederick,  
*Dudley DeBosier Injury Lawyers*, New Orleans

Defense: Matthew A. Mang and Victoria H. Fabre, *Lobman Carnahan*, New Orleans

Verdict: \$259,131 for plaintiff

Parish: **Jefferson**

Judge: Christopher Cox

Date: 3-25-22

There was a stop sign crash in Jefferson Parish on 7-15-17. There was proof that at the intersection of the U.S. 90 West Bank exit and U.S. 90B, the elderly Samuel Schudmak ran a stop sign. He broadsided Bonny Barrios, age 68, in the intersection – Schudmak's Ford F-150 struck the rear portion of Barrios' Toyota Camry sedan. It was a moderate collision.

Barrios was taken to the ER where she was treated and released for apparent soft-tissue symptoms. Then three days later Barrios was treated by an orthopedist, Dr. Mark Juneau. Marrero.

Barrios developed radiating low-back pain and some 47 days later she started treating at the Van Wormer Chiropractic Clinic. She later began a course of pain management care with

Dr. Patrick Waring. She underwent epidural steroid injections as well as radiofrequency ablations. These procedures provided Barrios relief.

Waring indicated that on an ongoing basis Barrios will require these interventions. Barrios was additionally seen by a spine surgeon, Dr. Samer Shamieh. He has recommended an L4-5 laminectomy. Barrios incurred medical bills of \$64,131 and claimed from \$209,000 to \$287,000 for future care. She also sought sums for general damages in three categories, pain and suffering, mental anguish and loss of enjoyment of life.

Barrios' causation claim was complicated. In 2009 she suffered a lumbar compression fracture after a fall. However despite that prior injury, Barrios had no treatment for her low-back after 2009 until this crash. Thus it was her position the collision caused a new injury and/or aggravated those prior conditions.

In this lawsuit Barrios sought damages from Schudmak and his insurer, State Farm. The policy limits were \$250,000. Schudmak died of other causes in 2019. He had given a statement after the wreck and denied running the stop sign. However he never provided a deposition before his death. While State Farm defended the case on liability for a time (it contested the memory of a so-called independent witness), ultimately the insurer admitted Schudmak was 100% at fault.

The defense of the case then turned

**Underinsured Motorist/Bad Faith - A personal injury lawyer complained of a low-back disc injury after a sideswipe crash on the interstate and he then pursued a UIM/Bad Faith claim against his insurer – while a jury in Baton Rouge found the lawyer was injured, it wrote “0” for each element of claimed damages and additionally rejected the bad faith count – the lawyer has since moved for a new trial/JNOV relief and argued the jury was biased because he was perceived as an “ambulance chaser”**

*Meredith v. USAA*, 678153

Plaintiff: Sean D. Fagan, *Locke*

*Meredith Sean Fagan & Associates*,  
Baton Rouge

Defense: Stephen L. Miles, *Pipes Miles & Beckman*, New Orleans and  
Michael M. Thompson and Claire E. Sauls, *Taylor Wellons Politz & Duhe*,  
Baton Rouge

Verdict: Defense verdict on damages on UIM; Defense verdict on liability on Bad Faith

Parish: **East Baton Rouge**

Judge: Martin E. Coady

Date: 3-11-22

It was 1-13-17 and Mitchell Meredith, then age 27 and a personal injury lawyer in Baton Rouge, traveled on the Bonne Carre Spillway (1-10) in St. Charles Parish. Next to him in traffic in the left lane was Arnulfo Reyes who was driving a Toyota Camry. Reyes was closely following a big rig.

Suddenly a tire blew out on the big rig and it slowed down quickly. In an effort to avoid striking the tractor-trailer, Reyes swerved right and crashed into Meredith. This knocked the Meredith vehicle into the guardrail of the bridge – in an effort

to keep his vehicle under control, Meredith counter-steered back into Reyes. It was a moderate crash and paint was ground off of Reyes’ sedan.

Meredith did not report an injury at the scene. He did begin to treat four days later for low-back pain. Thereafter Meredith underwent a course of physical therapy for several months until June of 2017. As Meredith’s symptoms persisted Dr. Jorge Isaza, a spinal surgeon, identified an L4-5 disc herniation and recommended a fusion surgery.

Meredith sought a second opinion from Dr. Eric Oberlander, a neurosurgeon. Oberlander agreed with Isaza’s diagnosis and concluded the wreck with Reyes was the cause of Meredith’s injury. This was echoed by Meredith’s treating physical therapist.

Meredith moved first against Reyes and his insurer, Lyndon Southern. Lyndon Southern paid Reyes’ \$15,000 limits. Meredith then moved against his UIM carrier, USAA. The policy limits were \$300,000. Meredith believed he’d proven his case (his medical evidence was un rebutted) and he was entitled to the policy limits. He portrayed himself as an otherwise young and healthy man who suffered a disc injury. Meredith’s wife (Ashley, also an attorney) and his young daughter (Sarah) also presented derivative consortium claims.

USAA denied that Reyes was at fault and suggested Reyes faced a sudden emergency when the truck’s tire blew out. USAA also contested the claimed injury. The insurer noted that Meredith didn’t immediately seek treatment and in fact on the night of the wreck, he went dancing at a wedding. It also noted that the MRI that identified the disc

herniation was not taken until 6-6-17.

USAA pointed to several other potential injury causing events between the wreck and the MRI, notably, Meredith having moved furniture, painted, slept in an uncomfortable bed when visiting his daughter in the hospital as well as lifting weights. USAA tendered \$54,445 to Meredith and believed that represented full compensation from what it viewed as a minor wreck.

Meredith contested this assessment and thought the “other injury events” theory put forward by USAA was speculative and unsupported by medical evidence. Beyond this being a simple UIM case, Meredith also alleged that USAA engaged in bad faith in handling the claim which could trigger penalty damages. USAA countered that it properly and fairly adjusted the claim in light of the contested proof on causation.

This case was tried for five days.

The jury had several questions: May we have a statement of all the medicals and payments from UIM? Also the medical records? Can we have a copy of the jury instructions and photos of the vehicles. It is not clear how Judge Coady replied.

Returning with a verdict, the jury first answered that the “driver” of the White Camry was at fault. It separately answered that Meredith was injured in the crash.

Despite that finding the jury wrote “0” for every category of claimed damages including the consortium interests. The jury further rejected Meredith’s bad faith claim. A consistent judgment was entered that reflected the verdict.

Meredith has since moved for a new trial and/or JNOV relief. He argued the verdict was inconsistent in