

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

November/December 2023

Statewide Jury Verdict Coverage

14 MSJVR 11/12

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Mississippi including court, division, presiding judge, parties, case number, attorneys and results. Notable results from the southern region, including Memphis and New Orleans, are also covered.

Notice: We had a combined November/December edition to close 2023. In doing our due diligence every month, there were only two trials in October so we were struggling to produce a November edition. There were three in November. You'll read them all here.

It's unusual to have so few trial results, we've been doing this since 2011 in Mississippi, and but for the Covid-19 era, this is the first time we've seen that happen. We suspect things will be back to normal in 2024. But we wanted readers to be aware November and December are a single edition (14 MSJVR 11/12).

Medical Malpractice - The plaintiff alleged her Ob-Gyn perforated her bowel during a robotic-assisted laparoscopic surgery by blindly inserting a trocar and then failed to timely diagnose the injury – the Ob-Gyn wasn't certain of the cause of the injury but thought it was most likely a slow-developing thermal injury and that when the plaintiff's symptoms declined, he made a timely diagnosis

Whitten v. Childrey, 20-80

Plaintiff: Wilbur O. Colom, *Colom Law Firm*, Columbus and Mark J.

Mandich and Francis M. Blaudeau, *Southern Med Law*, Homewood, AL

Defense: J. Gordon Flowers and Scott F. Singley, Columbus and R.

Lane Bobo, Jackson, all of *Brunini Grantham Grower & Hewes*

Verdict: Defense verdict on liability

Court: **Lowndes**

Judge: James T. Kitchens, Jr.

Date: 10-18-23

Ashley Whitten, then age 34, underwent a robotic-assisted laparoscopic surgery on 12-18-19 at Baptist Memorial-Golden Triangle. It was performed by an Ob-Gyn, Dr. Gregory Childrey of Columbus Ob-Gyn Speciality Center. Childrey began the procedure by inserting a 12mm trocar (a sharp instrument) into Whitten's abdomen. The procedure was uneventful.

Whitten alleged that during the surgery, Childrey blindly inserted the trocar and injured her small bowel. He then failed to immediately realize the injury and closed the surgery.

The next day Whitten had

typical post-operative pain management plan. The prescribed doses of opiates for Smith were described as reasonable both in light of his high tolerance for them and to address his chronic pain.

Then to the night in question, there was no sign of distress by Smith. This was especially so as it was near midnight (just a few hours before his death) when the drugs were at their peak of effectiveness, Smith was normal with no distress.

Finally Lewis contested causation. He was critical of the Hayne autopsy methods and conclusions, Lewis believing the etiology of Smith’s death was not certain. He thought it was most likely a sudden cardiac event that was neither preventable nor foreseeable.

Lewis identified several experts. They were: Dr. Winton Capel, Neurosurgery, Hoover, AL, Dr. Lori Marshall, Anesthesia, Jackson and Dr. Joyce Wade-Hamme, Sleep Medicine, Jackson. Wade-Hamme did not believe Smith had sleep apnea and in fact, Smith was never diagnosed with that condition.

This case was tried over four days in Brandon. The jury returned a verdict that Lewis was not negligent and thus didn’t reach the duties of the resolved parties, Kroos and the hospital, or apportionment and damages. A defense judgment was entered.

Lewis is not a rookie in the litigation process. This is the fifth jury trial in which he was a defendant. In 2011 (*Hathaway v. Lewis*, Case No. 15, Hinds), he prevailed in a case where the plaintiff suffered paralysis after an L5-S1 surgery. Lewis took a directed verdict in a 2017 case (*Thomas v. Lewis*, Case No. 747, Hinds) again

IN THE CIRCUIT COURT OF RANKIN COUNTY, MISSISSIPPI

PAMELA SMITH, AS WIDOW OF EDDIE T. SMITH, JR., AND AS ADMINISTRATRIX OF ESTATE OF EDDIE T. SMITH, JR., ON BEHALF OF EDDIE T. SMITH, JR., DECEASED, and PAMELA SMITH

PLAINTIFF

v. CAUSE NO. 61CI1:20-cv-00113-JA

ADAM LEWIS, M.D. and ACKSON NEUROSURGERY CLINIC, PLLC

DEFENDANTS

VERDICT FORM 12

Please answer the following questions:

1. Do you find from a preponderance of the evidence that Dr. Lewis was negligent and proximately caused or contributed to Eddie Smith’s death?

_____ Yes X No

If you answered question 1 “No,” then return to the courtroom with this form.

If you answered question 1 “Yes,” then go on to questions 2 and 3:

2. What amount of money do you find will reasonably compensate the plaintiff for Eddie Smith’s death?

Economic damages \$ _____

Non-economic damages \$ _____

3. For each person or entity listed below, assign a percentage of fault which you find from a preponderance of the evidence that their negligence contributed to the death of Eddie Smith. The percentages listed must total one hundred percent (100%).

Dr. Lewis _____

Dr. Krooss _____

Merit Health Rankin _____

Return to the courtroom with this special verdict.



The Verdict Form in Smith v. Lewis

involving paralysis after a surgery. Lewis again won by directed verdict in 2018 (*Scott v. Lewis*, Case No. 834, Hinds) involving a “dura” injury during a spinal surgery. Earlier this year he prevailed in a case in Rankin County, (*Upchurch v. Lewis*, 18-169) involving an alleged error in the placement of a battery in a spinal cord stimulator that led to permanent paralysis.

Case Documents:

- [Complaint](#)
- [Defense Expert Disclosure](#)
- [Pretrial Order](#)
- [Jury Verdict](#)
- [Final Judgment](#)