

The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

October 2024

Statewide Jury Verdict Coverage

21 TJVR 10

Tennessee's Source for Jury Verdicts Since 2004

In This Issue

Davidson County

Medical Negligence - Defense verdict

p. 7

Shelby County

General Negligence - \$13,987,974

p. 1

Sumner County

Nursing Home Negligence - Defense verdict

p. 3

Federal Court - Knoxville

FELA - \$330,000

p. 6

General Negligence - A handyman of sorts constructing a storage shed for an oral surgeon (the handyman had done all kinds of repair jobs for the oral surgeon for 20-plus years) suffered catastrophic injuries (he is an incomplete quadriplegic) when a ladder partially collapsed and he fell 16 feet – the plaintiff alleged both that the ladder was in poorly maintained and had been improperly set up by the oral surgeon – a Memphis jury awarded the plaintiff substantial damages including \$7.5 million in non-economic damages will be reduced to \$1,000,000 by Tennessee's tort scheme

Watkins v. Shoemaker, CT-0048-22

Plaintiff: Rocky Wilkins, Jackson, MS and Elaine Sheng and Ryan K.

Skertich, Memphis, all of *Morgan & Morgan*

Defense: Kevin D. Bernstein and Jon W. Tidwell, *Spicer Rudstrom*, Memphis

Verdict: \$13,987,974 for plaintiff less 22% comparative fault

Court: **Shelby**

Judge: Cedrick D. Wooten

Date: 9-16-24

Steve Watkins, then age 63, is a general handyman of sorts. He is good with a variety of construction projects including electrical work, framing, remodeling, maintaining farm equipment and other tasks. For more than 20 years Watkins had done work for a Millington, TN a long-time (more than 50 years) oral surgeon, Dr. O'Farrell Shoemaker.

Shoemaker engaged Watkins in

January of 2021 to build an RV storage shed on his property on 847 Chaser Road in Millington. It was to be 30 feet by 50 feet. Watkins was paid hourly. Watkins had a sidekick, Ramon Morales who assisted him on the project.

During the construction process, Watkins would advise Shoemaker on the materials he would need. Shoemaker would then purchase and provide them. Watkins also used Shoemaker's ladder to access the roof of the storage shed. It was a 22-foot extension ladder that Shoemaker had owned for some five years.

As the storage shed project was coming to a close on 1-30-21, Watkins and Morales were on the roof installing trusses. They appreciated that stormy weather was approaching. They began to secure the trusses and other equipment on the roof before descending from the roof. The ladder was set against the building and was extended 20 of its 22 feet.

As Watkins began to go down the ladder it suddenly dropped several inches under him. It was not a complete collapse. A locking mechanism on the ladder had failed. Watkins fell sixteen feet. At the time of the fall Shoemaker was some distance away on his tractor and didn't witness the fall.

Watkins suffered catastrophic injuries in the fall. They included a broken sternum and chipped tooth. The most serious was a C1-7 spinal fracture. He endured a double "front-

Norfolk Southern defended the case on the merits that Seal was an experienced and well-trained car man in the line of car method. That process was also described as safe. The defense train safety expert, Dennis Mitchell, Huntington, NY, noted the line of track method did not expose workers to awkward positions or repetitive tasks.

The defense also linked Seal's shoulder injury not to the heavy train work, but rather a long history of degenerative conditions. Seal had countered his shoulder was only occasionally "achy" before April of 2018 when he the line of track method resulted in a new and significant shoulder injury.

This case was tried for four days in Knoxville. The jury found that Seal had proven by a "preponderance of the evidence" that Norfolk Southern was negligence and separately that this negligence contributed to his injury. The jury then went to damages and awarded lost wages of \$30,000. Seal took \$300,000 more for his non-economic damages. The verdict totaled \$330,000 and the court has since entered a consistent judgment.

Case Documents:

[Summary Judgment Order](#)

[Sixth Circuit Opinion Reversing](#)

[Plaintiff Expert Disclosure](#)

[Pretrial Order](#)

[Jury Verdict](#)

Medical Negligence - A teenage boy (age 14) alleged a radiologist misdiagnosed an appendicitis which led its rupture, the development of an abscess and an extended hospital stay, which would have all been avoided with a prompt diagnosis

Thompson v. Burner, 21-1194

Plaintiff: Randall L. Kinnard, Mary Ellen Morris and W. Lyon Chadwick, Jr., *Kinnard Law*, Nashville

Defense: J. Eric Miles and Brigham A. Dixon, *North Pursell & Ramos*, Nashville

Verdict: Defense verdict on liability

Court: **Davidson**

Judge: Lynne T. Ingram

Date: 9-23-24

Jacob Thompson, then age 14, presented to the ER at Tristar StoneCrest Medical Center at 5:00 a.m. on 4-17-20. he had pain in his lower right quadrant. He told the medical staff he'd eaten "Hot Cheetos" the night before. The attending ER doctor suspected an appendicitis and ordered an ultrasound. The appendix could not be visualized but the risk of an appendicitis still remained high. Thompson was discharged.

Thompson returned to the Children's Hospital at Tristar Centennial at 10:48 a.m. the same morning with more intense pain. His white blood count was 16,000 and his blood pressure was 156/101. A CT scan was ordered. The CT was performed at 11:25 a.m. and a radiologist, Dr. Kevin Burner of Radiology Alliance, read it at 12:08 a.m. Burner concluded that the CT had "no acute findings." The ER team relied on that diagnosis and instructed Thompson to see his pediatrician in a few days.

Three days later Thompson was seen at a clinic. A blood test was performed. His mother received a call from the clinic early the next morning.

The blood test was consistent with an appendicitis and mother was instructed to take Thompson to the ER. She did so promptly to the Williamson Medical Center. A CT scan diagnosed a ruptured appendix with a large 10.1 cm peritoneal abscess..

Thompson was then transferred to Vanderbilt where he underwent multiple hospitalizations to treat intra-abdominal abscesses and other complications. His care culminated with the removal of his appendix on 7-31-2.

While Thompson's course was grueling and painful, by the fall he was healthy and playing football again. It's important to note that at the time, Thompson, just 14, was already a good-sized boy. He stood 6'3" and weighed 280 pounds. Thompson was a prodigious football player and ended up being a star defensive lineman at Brentwood High. A 2024 high school graduate, Thompson is now playing D-1 football at UAB. At the time of trial in September, he has not yet played in game and may redshirt this season.

That football diversion aside, Thompson (through his parents, Monica and Kenwick) filed this lawsuit against Burner and his medical group. The theory was that Burner misread the CT scan on 4-17-20 and thus failed to timely diagnosis the appendicitis. It was Thompson's proof that with a timely diagnosis and prompt referral to a pediatric surgeon at that time (rather than four days later), he would have had a brief hospital stay and an uneventful recovery. By contrast because of the error, Thompson endured a lengthy hospitalization and multiple procedures.

Thompson built his case through a