

# The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

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Statewide Jury Verdict Coverage

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*Tennessee's Source for Jury Verdicts Since 2004*

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**Workplace Negligence - An manager at Taco Bell was opening the store when she tripped on a drain defect left by an HVAC a month before and in the process she sustained a "Jones" fracture to her foot – a jury in Columbia awarded the plaintiff non-economic damages of \$300,000**

*Davis v. Total HVAC, 16660*

Plaintiff: Carrie LaBrec, Jenney Keaty and Lindsay Cordes, *Morgan & Morgan*, Nashville

Defense: Britton J. Allan, *Ortale*

*Kelley*, Nashville

Verdict: \$342,983 for plaintiff

Court: **Maury**

Judge: Caleb Bayless

Date: 1-12-24

It was Sunday morning in Columbia, TN on 10-21-18 and Heather Davis, an assistant manager, was performing her duties at Taco Bell. She was walking from one area of the kitchen to another as she did her prep work. Davis was wearing a non-slip shoe.

As Davis traversed in the kitchen,



*The drain at Taco Bell where the plaintiff fell*

her shoe caught on a screw extending from a drain in the floor. It caused her to fall backwards. Davis sustained a so-called “Jones” fracture of her foot. She later underwent two surgeries. There was the initial surgery to repair the fracture and place a large screw.

Following that first surgery Davis couldn’t bear weight for a time and missed 3.5 months of work. After a course of physical therapy, she had a second surgery 11 months later to remove the hardware from the first one. Davis continues to report pain in her foot.

In this lawsuit Davis blamed Total HVAC for the incident. How was it involved? A month or so before this incident, it had serviced and unclogged the drain where Davis tripped. The allegation was that the drain cover (and screw) were not properly closed. It should have been secure and flush with the floor. There was proof that no one other than Total HVAC had any involvement with the drain.

If Davis prevailed at trial she sought medical bills, lost wages and non-economic damages. There was no allegation of negligence by the plaintiff, her employer or any other party. It was a straight all-or-nothing negligence claim against Total HVAC.

Total HVAC denied fault and argued that following the repair work, it had properly replaced the drain. It suggested that if any defect in the drain cover occurred in the intervening month. Davis countered that there was no evidence of any other event to loose the drain cover.

The case was tried in Columbia for two days. While the plaintiff’s duties were no issue, the jury was asked if Total HVAC was negligent. The answer was yes and separately that Davis had sustained an injury.

The jury then went to damages. Davis took medicals of \$32,983 and \$10,000 more in lost wages. Her non-economic totaled \$300,000 and was spread over seven categories. Those damages were broken down as follows:

Past and future suffering: \$25,000 each  
Future pain and suffering: \$25,000 each

Past and future mental anguish: \$25,000 each

Past and future loss of enjoyment of life: \$50,000 each

Permanent injury: \$100,000.

The non-economic damages (\$300,000) were 9.09 times the medical bills of \$32,983. At the time of this report while a judgment had been tendered, it has not yet been entered.

#### Case Documents:

[Complaint](#)

[Jury Verdict](#)

#### **Auto Negligence/UIM - The plaintiff, a contract trucker for Federal Express, suffered a rotator cuff injury when her truck was rear-ended – a Nashville jury awarded her \$385,500 in non-economic damages which was 3.34 times the medicals**

*McCann v. Kramer et al*, 18-694

Plaintiff: R. Burke Keaty, II, *Morgan & Morgan*, Nashville

Defense: John Thomas Feeney, *Feeney & Murray*, Brentwood for tortfeasor Scott A. Rhodes, *White & Rhodes*, Brentwood for Protective Insurance (UIM)

Verdict: \$500,706 for plaintiff

Court: **Davidson**

Judge: Lynne T. Ingram

Date: 10-3-23

Cynthia McCann was working on 4-4-17 for a logistics firm that was contracted to make deliveries for Federal Express. That day she traveled in Nashville on Hobson Pike near

Granny Wright Lane. A moment later she was rear-ended by Alexander Kramer. It was a very hard hit. Kramer had no memory of it and perhaps had blacked out. In any event fault was no issue.

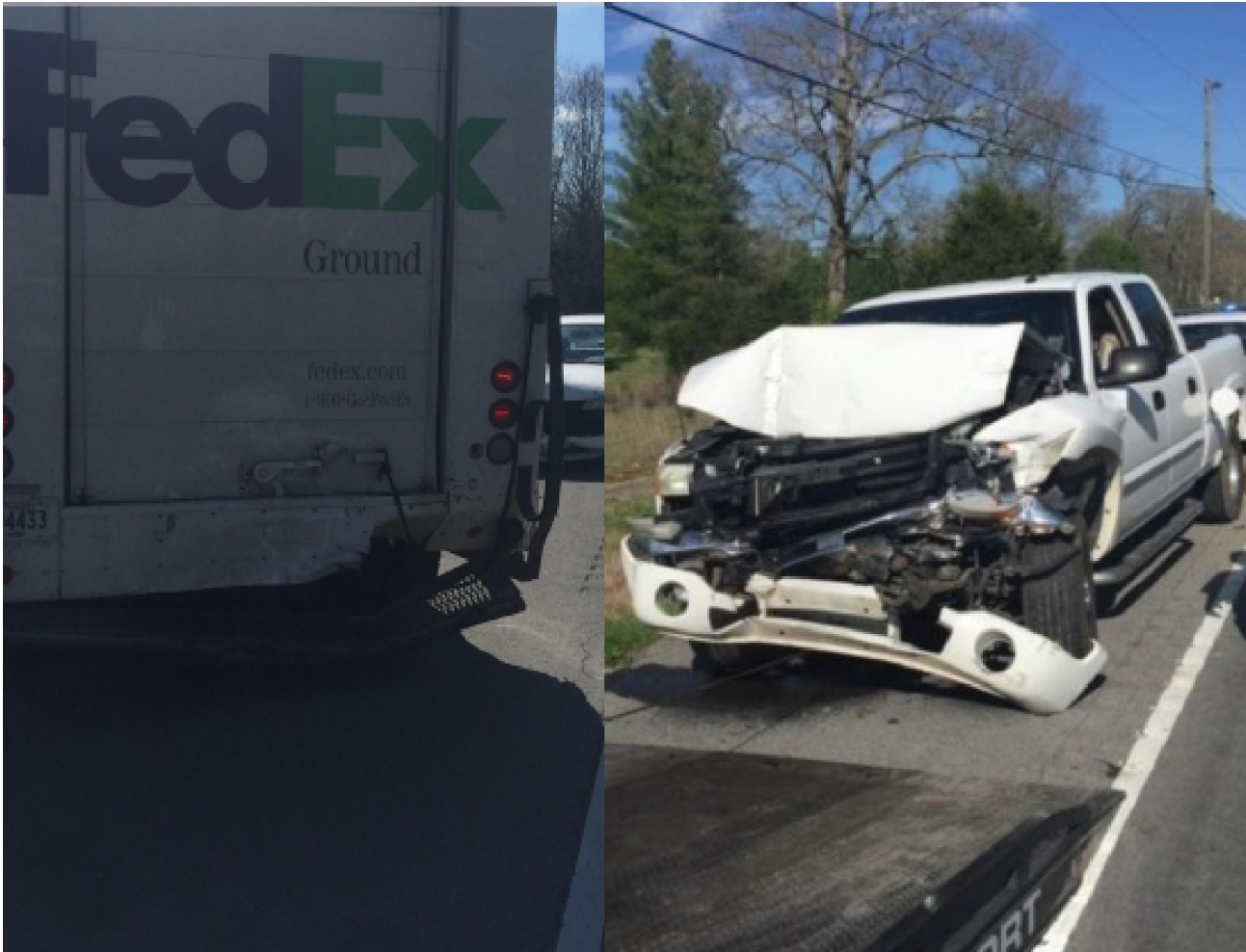
McCann was taken to the ambulance at Summit Medical where she was treated for apparent soft-tissue neck and shoulder pain. McCann was later identified as having suffered from a rotator cuff tear. She underwent a surgical repair in July of 2017.

In this lawsuit McCann sued Kramer and sought damages from him. Kramer, a Progressive insured, had \$100,000 policy limits. McCann also sued her own UIM carrier, Protective Insurance. Protective insured her employer and provided \$1,000,000 in coverage. It also provided her worker’s compensation benefits. Protective was a so-called “silent” defendant at trial in representing its interests.

How then was the wreck defended? Kramer and the insurer minimized the claimed injury. They also suggested that the rotator cuff injury (developed on cross-examination of the plaintiff’s treating orthopedist, Dr. Damon Petty) that it could have been related to McCann’s history of a repetitive activity, namely, lifting heavy boxes for Federal Express.

This case was tried for two days. The jury only considered damages. McCann took medicals of \$115,206. The jury rejected future care.

The jury then moved to non-economic damages. McCann took \$150,000 for past suffering and \$25,000 more for in the future. A category called “permanent injury” was valued at \$175,500. Finally the award for past loss of enjoyment of life was \$10,000 and that in the future



*The McCann/Kramer vehicles after the collision*

was \$25,000.

The non-economic damages for McCann totaled \$385,500. That was 3.34 times her incurred medical bills. The combined verdict (economic and non-economic) for McCann was \$500,706.

Thus the award exhausted Kramer's (a Progressive insured) \$100,000 policy limits. That was reflected in a judgment and Progressive satisfied it. The final judgment against the UIM (Protective) was \$382,445, representing the raw verdict less the underlying limits and some \$17,000 or so Protective had paid in worker's compensation. Protective satisfied that

sum too and the case is closed.

**Case Documents:**

[Complaint](#)

[Jury Verdict](#)

[Final Judgment](#)



**Civil Rights** - A inmate was brutally attacked at the "jail intake" by deputy jailers and he suffered grievous and permanent injuries (multiple fractures and a TBI) all as captured on video – he sued the sheriff's office and alleged a deliberate indifference "failure to train to intervene" theory and a federal jury made him a general award against the county only (not the individual government tortfeasors) of \$6,000,000

*Ling v. Campbell County Sheriff,*  
3:20-233

Plaintiff: Tony Seaton and Thomas J. Smith, *Garza Law Firm*, Johnson City

Defense: Arthur F. Knight, III, *Taylor & Knight*, Knoxville

Verdict: \$6,000,000 for plaintiff

Federal: **Knoxville**

Judge: Charles E. Atchley, Jr.

Date: 2-2-24

Nathan Ling, age 18, was visiting in LaFollette, TN (Campbell County) from Michigan on 6-2-19. He was in a vehicle that had been reported stolen. Just after midnight neighbors called the police to report (quite correctly) that the vehicle was stolen. Deputies from the sheriff's office arrived to investigate. Ling had felony warrants out for him back in Michigan and had no interest in a police encounter.

Ling fled on foot but didn't get far. He ran into the back of a park pick-up truck and knocked himself out. The police captured him and there was a brief struggle as Ling resisted. He was not injured during this event.

The deputy sheriffs then transported Ling to the jail in LaFollette. He was in handcuffs as he was taken in to the intake room at the jail. It is not clear if the jailers knew this or not, but at this time, there was a camera that captured the events in the intake room.



*The scene in the intake room as Ling was beaten by the jailers*

A moment later a deputy jailer (Crabtree) slammed Ling against a counter. Ling slid down to the ground. A second officer (Brown) joined in the melee and struck Ling in the face. A third officer (Williams) secured Ling's legs as the fellow deputies continues to strike Ling in the face and body.

Ling was then carried to a second "decontamination" room. There was no camera in this part of the jail. However there was proof the beating continued. A nearly unconscious Ling was placed in a cell as the beating finally concluded. He was left there overnight.

A nurse discovered Ling the next morning when she made rounds. It was clear immediately that Ling was very seriously injured. Ling was transported to a local hospital and from there he was airlifted to a hospital in Knoxville.

Ling had suffered a variety of serious injuries. That included

complex facial fractures, a broken arm, a collapsed lung and more permanently Ling suffers from a traumatic brain injury and emotional symptoms. The combination of these injuries has left Ling permanently disabled. He lives at home back in Michigan and struggles with daily life activities. A guardian ad litem was appointed to govern his affairs and because of his brain injury, he did not attend te entire trial.

Ling filed this lawsuit against Campbell County and advanced an interesting two-part "deliberate indifference" theory. It was first interesting because by the time of trial, Ling had dismissed all his claims against the individual defendants. The only target was Campbell County.

The first theory was that the sheriff's office in operating the jail had failed to train staff to intervene to protect jail detainees from abuse by jail staff. The deputies testified at trial that there was no training on this