

# The Tennessee Jury Verdict Reporter

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Statewide Jury Verdict Coverage

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**Auto Negligence - The plaintiff was rear-ended at a red light and later underwent a rotator cuff repair - a Nashville jury awarded the plaintiff medicals of \$63,011 and \$165,000 more in non-economic damages**

*Reyadh v. Trulite Glass & Aluminum et al, 23-2009*

Plaintiff: Blair P. Durham and Chaucey Fuller, *Bart Durham Injury Law*, Nashville

Defense: Trevor L. Sharpe, *Arnett Baker Draper & Hagood*, Knoxville

Verdict: \$277,966 for plaintiff

Court: **Davidson**

Judge: C. David Briley

Date: 2-25-25

Sherif Reyadh, then age 48 and a sales representative, traveled on 10-3-22 on Trinity Lane at its intersection with Dickerson Road. He was driving a late model Mercedes SUV. Reyadh

was stopped at a red light. Gregory Klopff, operating a commercial box truck for Trulite Glass and Aluminum, came to a stop behind Reyadh. Klopff too was waiting at the light.

When the light turned green, Klopff looked to the adjacent lane to his left. The traffic was moving. Mindlessly Klopff let off the brake. Reyadh however had not yet started moving. A moment later Klopff's truck rear-ended the Reyadh Mercedes. The collision resulted in minor damage to Reyadh's SUV that mostly consisted of dents and scratches. It still cost to \$4,643 to repair that damage. There was also minor damage to Klopff's truck. In any event fault was no issue.

Reyadh reported immediate shoulder pain. Later that day he presented to the ER at Vanderbilt for those symptoms. His shoulder pain persisted and he underwent a course

of physical therapy. That December his treating orthopedist (Dr. Charles Cox) performed a rotator cuff repair surgery. Reyadh's medical bills were \$63,011 and he also sought sums for future care and lost wages.

In this lawsuit Reyadh sought



*The Reyadh Mercedes after the collision*

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**Disability Discrimination - A surgical tech at a Chattanooga hospital alleged she was demoted from a more favored cardiac operating room to the "regular" operating room (this resulted in less pay) because of the hospital's failure to accommodate her disability**

*Westbrook v. Erlanger Hospital*, 1:23-216

Plaintiff: Frank P. Pinchak, *Burnett*

*Dobson & Pinchak*, Chattanooga

Defense: Russell W. Gray and Ashley

M. Angell, *Baker Donelson Bearman*

*Caldwell & Berkowitz*, Chattanooga

Verdict: \$664,632 for plaintiff

Court: **Chattanooga**

Judge: Travis R. McDonough

Date: 1-24-25

Theresa Westbrook worked for many years as a surgical technician at Erlanger Hospital in Chattanooga. She worked in the hospital's main operating room (OR). Westbrook has several physical maladies that limit her at work. They include, (1) a chronic spinal neuropathy, and (2) cholangitis (bile duct inflammation) which affects her liver function and results in extreme fatigue.

In 2018 the hospital opened a new Cardiovascular OR (CVOR). It operated differently than the main OR. While the OR was mostly scheduled procedures, the CVOR was on call as needed. However the CVOR needed nurses to be staffed at all times even when not in use. It solved that problem by having "on call" nurses

who were paid a \$5 an hour premium for being ready when needed.

Westbrook enjoyed her assignment to the CVOR.

There was a key feature of the CVOR that affected Westbrook's employment. It featured an x-ray room the primary OR lacked. This required employees in the x-ray room to wear a 10 pound lead vest to protect against x-ray exposure. Because of the fatigue associated with wearing the heavy vest, Westbrook required regular breaks. Ultimately Westbrook was given two accommodations, (1) she was not required to work in the x-ray room of the CVOR, and (2) she was provided a stool to sit on during breaks.

This process continued until July of 2022 when a new manager took over the CVOR. That manager wanted cross-training across the different areas of the CVOR to increase efficiency. That meant that Westbrook needed to work in the x-ray room. This led to Westbrook being transferred back to the OR from the CVOR. This resulted in a diminution in her pay.

While Westbrook continues to work at the hospital, she alleges that this demotion represented disability discrimination. She argued Erlanger Hospital had failed to interact with her to arrive at a reasonable accommodation of her disability. She noted in this regard that before the new manager introduced his efficiency ideas, she had performed well with the accommodations noted above.

If Westbrook prevailed on the disability discrimination count, she could take back pay and compensatory damages for her emotional distress. The jury could also assess punitive damages. As Westbrook favored reinstatement (she's still working in

the OR), she did not make a claim for front pay. This decision would later be very important to the case.

There was an underlying current in this case. Westbrook had a conflict with an Erlanger surgeon, Dr. Larry Shears. She believed that Shears had orchestrated her transfer to the OR because she purportedly opposed his favored relationship with a surgical tech girlfriend. Erlanger countered that the Shears matter (whatever it was) was irrelevant to the case and the court ultimately excluded that evidence. Westbrook had also advanced a FMLA retaliation claim. It was defeated by summary judgment.

Erlanger Hospital defended the FMLA accommodation claim on the merits. It argued that Westbrook could not perform the CVOR job, with or without a disability, because of her physical conditions. The hospital explained that both standing (not using the stool) and accessing the x-ray room were essential to the job. Moreover it argued that it *had* accommodated Westbrook by moving her back to the OR. Westbrook had countered the return to the OR was a demotion.

This case was tried for four days in Chattanooga and the jury deliberated for three hours. The jury answered for Westbrook on the reasonable accommodation claim and awarded her \$64,633 in back pay. It further rejected Erlanger Hospital's affirmative defense that asked if the hospital had proven it acted in good faith to identify a reasonable accommodation.

If the jury had answered "yes" to the good faith defense, that would have ended the deliberations. The "no" permitted the jury to continue to compensatory damages. Westbrook was awarded \$100,000. The jury (at