

The Tennessee Jury Verdict Reporter

The Most Current and Complete Summary of Tennessee Jury Verdicts

April 2026

Statewide Jury Verdict Coverage

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Medical Negligence - A toddler (two years old) died of bacterial pneumonia a week after being seen at an ER by two pediatric ER physicians who treated him for a viral illness – the liability theory was that the doctors violated the standard of care in failing to make the correct diagnosis – the doctors replied that they appropriately treated the child and that at the ER visit, he didn't yet have a bacterial infection – the jury found the doctors at fault in a joint instruction (there was no comparative fault) and awarded \$182 million in damages representing \$30,000,000 for the boy's suffering and \$150,000,000 more for his parent's consortium interest – the trial judge first reduced the verdict to comply with Tennessee's tort scheme (saving the defendant's \$179.25 million) and subsequently ordered a new trial as the thirteenth juror

Miller v. Pediatric Emergency Specialists, CT-4916-24

Plaintiff: Les Jones and L. Mathew Jehl, *Burch Porter & Johnson*, Memphis
Defense: Joseph M. Clark and Samantha E. Bennett, *Lewis Thomason*, Memphis

Verdict: \$182,002,426 for plaintiff

Court: **Shelby**

Judge: Rhynette Hurd

Date: 11-12-25

Davartia and Jalise Miller first took

their son, Joshua (he was two years old) to daycare in February of 2017. The introduction of children to daycare is associated with viral illness. In fact there was proof that children in daycare have a few viral infections every month.

Joshua was no different. His mother took him to the ER on 2-17-17 at Methodist LeBonheur Germantown. He showed all the signs of a viral illness. Joshua was treated in the ER by Dr. Mindy Littlejohn. She is an employee of Pediatric Emergency Specialists. Littlejohn evaluated the boy and diagnosed a viral infection.

Joshua was worse over the next week and his mother returned him to the ER eight days later on 2-25-17. This time he was evaluated by both Littlejohn and a second pediatric ER physician (also an employee of the same medical group), Dr. Tim O'Connor. A chest x-ray of the child was clear and the doctors concluded Joshua continued to suffer from a viral illness.

Was that diagnosis correct? Did the child have a viral illness or was it instead bacterial pneumonia? The timing too was important. Did Joshua have bacterial pneumonia on that date? This would be the key issue in this case.

Joshua returned to the ER nearly a week later on 3-2-17. He was very sick and had a cough. Testing

Auto Negligence - The plaintiff evaded a vehicle that pulled into his path (there was no contact) but he continued on and crashed into a tree – the collision left him with a mild L-5 compression fracture – a Memphis jury awarded the medicals as claimed of \$78,148 plus \$70,000 more in non-economic damages

Conway v. Brown, CT-4216-22

Plaintiff: Derek O. Fairchilds, *Nahon Saharovich & Trotz*, Memphis

Defense: Abigail Gray Brigance, *Hickman Goza & Spragins*, Memphis for Brown

Nicholas Owens, *Owens Law Firm*, Memphis unnamed UM, ANPAC

Verdict: \$148,148 for plaintiff less 40% comparative fault

Court: **Shelby**

Judge: Felicia Corbin-Johnson

Date: 5-6-26

Donald Conway traveled on Memphis-Arlington Road in Bartlett. The inferior Third Road ends at Memphis-Arlington in a T-intersection that is controlled by a stop sign. It does so at an odd angle. The view of traffic on the superior Memphis-Arlington is obscured in part by several large trees that line the road.

Against this backdrop Conway approached Third Road. He alleged that the defendant, Anna Brown, pulled from Third Road into his path to make a left turn. Conway sped up and veered right. He avoided an impact with Brown. However Conway lost control and crashed his vehicle into one of those large trees.

Conway suffered a mild compression fracture at L-5. He treated with steroid injections and ultimately underwent a kyphoplasty procedure. His medical bills were \$78,148.



An image of the Conway vehicle after it crashed into a tree

Conway sought damages from Brown and his insurer (not named) ANPAC. That included his medical bills as well as sums for his non-economic damages. His wife (Deborah) presented a derivative consortium claim.

Brown defended the case on liability that she actually never pulled

onto Memphis-Arlington. Instead she had just inching out to look around the trees and then stopped when she saw Conway coming. Thus it was her belief he was solely at fault for losing control. Conway was unable to state for sure if Brown had actually entered his lane as he was focused on, (1) avoiding the wreck, and (2) trying

Historical Tennessee Verdict

Baseball Negligence - A batter for the Chattanooga Lookouts was hit by a pitch in 1955 and threw his bat at the pitcher – the catcher promptly stood up and sucker-punched the batter who suffered a broken jaw – the batter sued the Nashville team and the catcher and took damages of \$5,000 – the Court of Appeals later reversed the award as to the Nashville Vols as the punch was not foreseeable and within the duties of a catcher

Luttrell v. Nashville Baseball Club et al
 Plaintiff: Ray L. Brock, Jr. and Raymond Graham, *Dietzen Graham Dietzen & Brock*, Chattanooga
 Defense: Jack Norman, Nashville for Nashville Baseball Club
 Jac Chambliss, Chattanooga for Earl Averill

Verdict: \$5,000 for plaintiff
 Court: **Hamilton**
 Judge: Fred Ballard
 Date: November 23, 1956

The Chattanooga Lookouts of the Southern Association hosted the Nashville Vols on August 20, 1955 at Engel Field. In the middle of the fifth inning, Gerry Lane was on the mound for the Vols. Earl Averill (his father was a Hall of Fame catcher of the same name) was behind the plate. Lyle Luttrell came to bat. He was having a big year and was hitting .324 for the Lookouts who were then an affiliate of the Washington Senators.

Lane walked Luttrell on four pitches. The last was a slider. It brushed Luttrell on his pants in a glancing blow. Luttrell didn't like it and threw his bat into the field towards the pitcher. The bat missed the pitcher.

In a fit of sudden rage, Averill

Luttrell Injured in Brawl; Nashville Catcher Is Jailed

Lookout shortstop Lyle Luttrell suffered a broken jaw for the second time this season when clouted by Nashville catcher Earl Averill Jr. in the fifth inning of last night's game at Engel Stadium. Ball park officers were ordered by Chief Ed Ricketts to arrest Averill on a charge of assault and battery, an action rarely taken in professional baseball.

FARM ADVICE TO RED HOSTS

Russian Agriculture Needs More Machinery but Less Control, Americans Say

MOSCOW, Aug. 20 (AP) — Fifteen American farmers who have been touring the Soviet Union for more than a month told their hosts in a frank report today Russian agriculture would benefit from more machinery and less central control.

The Americans topped off their strenuous tour in a conference with Russian agricultural bigwigs at the Agriculture Ministry and the traditional visit to the Lenin-Stalin Mausoleum here. They prepared to leave for home tomorrow.

14-Point Program

They strongly urged the Soviets in a 14-point program to seek agreement with the United States on an exchange of farming know-how through a big program for swapping experts, and technical publications. Since the Americans had no official status, it was not known here whether their views on exchanges are shared by the Washington administration.

The farmers have seen more, learned more and traveled more than any other group of foreign

batters.

The fist-swinging was touched off by a pitcher-batter duel put on by the flashy Lookout infielder and Nashville pitcher Gerry Lane, a former Lookout with a league reputation for fire-balling occasionally at the heads of

After Luttrell pitched unconscious to the ground, players of both teams began fighting among themselves and infielder Hal (Buster) Boguskie, a Vol for seven years before joining the Lookouts a few days ago, was struck in the mouth by an unidentified Nashville player. Boguskie was essaying the role of peacemaker.

With Luttrell at bat in the home half of the fifth, Lane threw four straight wide ones. The fourth ball brushed the 25-year-old Californian's pants and, apparently deciding he was being thrown at deliberately, Luttrell hurled his bat toward Lane. In almost the same instant, the 190-pound Averill stepped forward and swung. His fist caught Luttrell on the right side of his lower jaw, fracturing the bone on the left. The infielder had obviously not fully recovered from a fracture suffered at almost the same spot when he was hit by Little Rock pitcher Gene Host in Little Rock during a May series.

Manager Cal Ermer rushed from the coaching box to the mound, leaped on Averill and rode him to

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behind the plate stood up and sucker-punched Luttrell in the jaw. It was a solid blow and Luttrell was knocked out cold for some 25 minutes. He also suffered a broken jaw. All hell broke loose on the field and a five-minute fight ensued.

The police chief was at the game and saw the fight. He called for Averill's arrest. Averill changed out of his uniform and was taken to jail. He paid a \$5,000 bond, the Nashville team borrowing the money from the Hotel Patten where they were staying. It is not clear how the criminal case sorted out.

Two days after the fight, Luttrell filed a lawsuit in Hamilton County regarding the assault. The case against Averill was simple enough. He'd assaulted Luttrell. He also alleged the Nashville Vols were to blame as Averill's employer.

The case came to trial in November of 1956. In the interim both Averill and Luttrell had made it to the big leagues. Averill would play in the Majors for six seasons. Luttrell lasted two in 1956 and 1957. He hit .192 in 57 games. Many believed his career was cut short because of the injuries sustained

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