

# The Tennessee Jury Verdict Reporter

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July 2022

Statewide Jury Verdict Coverage

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**Medical Negligence - The plaintiff (age 22 at trial) alleged that he developed autism after receiving childhood vaccines, including an MMR vaccine, three days shy of his first birthday – the theory alleged both informed consent and negligence by his treating pediatrician, the case turning on both the 2001 standard of care and complex causation issues – the case was tried for two and a half weeks and the doctor prevailed on liability**

*Hazlehurst v. Hays*, 19-38

Plaintiff: David C. Riley, *Glassman Wyatt Tuttle & Cox*, Memphis, Robert F. Kennedy, Jr., Hurley, NY and Aaron Siri, New York, NY

Defense: Marty R. Phillips and Craig P. Sanders, *Rainey Kizer Reviere & Bell*, Jackson

Verdict: Defense verdict on liability

Court: **Madison**

Judge: William B. Acree

Date: 2-18-22

Yates Hazlehurst was born on 2-11-00 to his parents, Rolf and Angela. His first year of life was mostly normal. He had a few illnesses but regularly treated with his Jackson, TN pediatrician, Dr. Carlton Hays of The Jackson Clinic.

Yates saw Hays on 2-8-01 (just three days shy of Yates' first birthday) for a twelve-month check-up. He also was tugging a bit on his ears and Hays diagnosed an ear infection. The doctor prescribed an antibiotic for the ear infection. He also provided the boy with a series of childhood vaccines

including MMR (measles, mumps and rubella).

Yates' parents reported that within days the child had changed.

Previously he was walking a bit and said "Mama," "Dada" and "please." his behavior regressed and he had emotional and physical problems. A few months later he was diagnosed with autism by a developmental expert.

The parents suspected that Yates' autism was related to his vaccination. They relied on proof from a treating physician and other experts and filed a federal vaccine claim. The causation theory was that the vaccine and/or a mercury-based preservative (Thimerosal) had led to the development of the boy's autism.

Moving forward as a test case, Yates' claim was decided in February of 2009 by the Court of Federal Claims. In an opinion that ran 203 pages, the court rejected the case on causation. The plaintiffs appealed and a year later in May of 2010, the Court of Appeals for the Federal Circuit affirmed.

Yates (again through his parents) turned the litigation to state court. In a lawsuit originally filed in 2003 (03-117), then voluntarily dismissed and refiled in 2004 (04-149) the parents presented a claim. The plaintiffs on behalf of Yates filed a case in 2010 (10-290), later volitionally dismissed and refiled in this 2019 action, 19-38. The parents subsequently dismissed their