

The Alabama Jury Verdict Reporter

The Most Current and Complete Summary of Alabama Jury Verdicts

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Alabama's Jury Verdict Reporter Since 2001

In This Issue

Jefferson County	
Landlord Negligence - \$125,000	p. 1
Auto Negligence - \$2,100	p. 3
Auto Negligence - Defense verdict	p. 4
Child Care Neg. - Zero damages	p. 7
Auto Negligence - \$500	p.10
Federal Court - Mobile	
Premises Liability - \$200,000	p. 2
Montgomery County	
Auto Negligence - Defense verdict	p. 2
Madison County	
Battery - \$42,100	p. 3
Age Discrimination - Defense verdict	p. 9
Chilton County	
Products Liability - Defense verdict	p. 3
Lee County	
Medical Negligence - Defense verdict	p. 4
Cullman County	
Auto Negligence - Defense verdict	p. 5
Federal Court - Birmingham	
Employment Contract - \$199,041	p. 6
Shelby County	
Auto Negligence - Defense verdict	p. 7
Mobile County	
Uninsured Motorist - \$9,500	p. 8
Talladega County	
Auto Negligence - \$165,000	p. 8
Dallas County	
Underinsured Motorist - \$75,000	p.10
Walker County	
Auto Negligence - \$2,500	p.10
Colbert County	
Battery - Defense verdict	p.11

Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts in Alabama including circuit, presiding judge, parties, case number, attorneys and results.

Landlord Negligence - A Section

8 tenant claimed her landlord performed a self-help eviction while she was at work by changing her locks and putting her property on the street where it was stolen; the

landlord claimed unknown persons had broken into the tenant's

apartment and stolen her property

Jordan v. Forest Hills Apts., et al.,

10-904457

Plaintiff: Mark A. Pickens, *Mark A.*

Pickens, P.C., Birmingham

Defense: Gregory C. Starkey,

Birmingham

Verdict: \$125,000 for plaintiff

(comprised of \$25,000 in compensatory

damages and \$100,000 in punitives)

Circuit: **Jefferson**, 7-31-12

Judge: Ed Ramsey

In 2010, Dorothy Jordan rented Unit A in the 2613 building located in the Forest Hills Village in Birmingham.

Forest Hills Village was Section 8

housing, and the cost of her apartment

was \$446 per month. The 2613

building in which Jordan's apartment

was located was badly damaged and in

need of refurbishing. Problems with the

building included broken windows,

leaking sewage, and missing fixtures.

There was also a problem with

vandalism.

Because of the problems, Forest Hills

Apartments and PK Management,

LLC., which owned and maintained

Forest Hills Village, decided to perform

renovations. To do so, they employed

contractors. The Forest Hills Village

employees and the contractors'

employees were unfamiliar with one

another.

One day Jordan arrived home from

work with her daughter, Jessica

Connely, to find that her key would not

unlock her front door. Worse yet,

Jordan and Connely spotted a pile of

their possessions on the street in front of

Jordan's apartment.

Jordan went to investigate why she

had been locked out of her apartment.

The rental office directed her to an

office where Jordan found Mary Jones, the regional manager. Upon hearing Jordan's story, Jones directed Jordan to produce a receipt of her rent payment.

Jordan went to her car to get the receipt, but when she returned she found the office door locked. Jones was nowhere to be found – either she had left the office or she was inside but refused to open the door.

Jordan was unable to salvage her property before it disappeared from the street. The missing property included her furniture, her clothes, food, appliances, and her daughter's possessions.

In November of 2010, Forest Hills Apartment then filed an unlawful detainer action in district court against Jordan. It sought \$1,119 in unpaid rent, late charges, and other fees. This suit would later be dismissed without prejudice in August of 2011.

Enraged by a demand for \$1,119 from the landlord who had thrown her property into the street to be stolen, Jordan filed suit against Forest Hills Apartments and PK Management in December 2010. She blamed them for engaging in a self-help eviction which had caused her to lose all her property. Jordan argued that defendants had been required to institute a court action before eviction because she had been living in Section 8 housing.

Jordan won by default when defendants did not respond. Defendants later moved to have the default set aside. The court granted the motion and ordered defendants to file an answer within 20 days. When defendants failed to do so, Jordan moved again for default. Defendants hastily answered, and the litigation proceeded. Later, however, Jordan would have to move to compel after defendants failed to timely respond to her discovery requests.

Defendants then argued they had not evicted Jordan or removed her property. Instead, they suggested, unnamed and

unknown persons had broken into Jordan's apartment while she was at work. The thieves had then removed Jordan's property and dumped it on the street. In support of their position, defendants pointed to the fact that Jordan had not personally observed any Forest Hills Village employee enter her apartment and remove her property.

Jordan countered by producing a witness, her nephew Christopher Parson, who said he saw an individual known as "Mr. Pete," as well as other individuals unknown to him, removing Jordan's possessions. Parson said that Mr. Pete "was" an employee.

Defendants fired back that Parson was a trespasser on their property, and so his testimony should be discounted. Further, they argued, Parson could only say Mr. Pete "was" an employee in the past. That was unspecific. Therefore, Jordan could not produce any evidence that Mr. Pete had been an employee on the day Mr. Pete removed Jordan's property.

In addition, defendants produced two of their employees, Jones and a maintenance supervisor, who were willing to testify that the other individuals identified by Parson as working with Mr. Pete were not employees. Defendants suggested these mysterious individuals might have been working for the contractors doing renovations.

Jones went further and identified one of the individuals, a man known as "Country," as being a known trespasser. In the alternative, defendants argued that Jordan had abandoned the apartment and her property and so they had been entitled to remove it.

After hearing the parties' respective arguments, a Birmingham jury awarded Jordan \$25,000 in compensatory damages and \$100,000 in punitives. The court entered a consistent judgment.

Immediately thereafter defendants' attorney filed his second motion to withdraw from the case. He had previously withdrawn on grounds that he and his clients differed as to the issues involved, but he had reappeared for defendants shortly after his withdrawal. His second motion again

cited as a reason for withdrawal that he and defendants differed as to the issues involved. The court permitted the defense attorney to withdraw, and a different attorney replaced him for the post-judgment motions.

In a motion for new trial or to alter or amend the existing judgment, defendants argued that Jordan had no real proof that they had removed her property. Furthermore, if they had, it was only by an understandable mistake and not by malice. The other apartments in Building 2613 had all been vacant during the renovation. Thus, defendants insisted, an award of punitive damages had been inappropriate.

Jordan responded by arguing the jury's verdict had been entirely appropriate. She pointed to Jones's testimony in which she repeatedly made statements of ignorance about the events of that day and, at one point, went so far as to express ignorance as to the legal name of her employer. Jordan argued that defendants routinely performed illegal self-help evictions to keep their costs as low as possible. At the time the AJVR reviewed the record, the court had not yet ruled on the motion.

Premises Liability - The plaintiff suffered a serious lower leg injury when a retail employee bumped a television from a counter and it fell on him

Costa v. Sam's Club, 1:11-297

Plaintiff: Harry V. Satterwhite and Gabrielle E. Reeves, *Satterwhite Buffalow Compton & Tyler*, Mobile
 Defense: Chad C. Marchand and W. Pemble Delashment, *Delashment & Marchand*, Mobile

Verdict: \$200,000 for plaintiff

Federal: **Mobile**, 9-19-12

Judge: William H. Steele

Eugene Costa, then age 70, returned a television he had bought from Sam's Club to the Spanish Fork, AL store on 3-17-10. He was unhappy with the picture. Bringing it into the store, a Sam's Club employee put the television on a counter to plug it in and test the picture. As the employee reached behind the shelf to plug in the television, he bumped it.

The television fell from the shelf and struck Costa in the leg. The force of that impact led to the development of a hematoma on his leg. It was later surgically treated, the wound healing slowly. There was also proof that following the surgery Costa suffered a renal failure complication. He died two years later, his family recalling he was less active and in a period of decline after this incident. The incurred medical bills were \$49,824.

This lawsuit was filed by Costa against Sam's Club before his death – his estate continued it thereafter. The theory alleged negligence by the Sam's Club employee in bumping the television. Sam's Club defended the case and called the incident a simple accident – there was no negligence, its employee not doing anything dangerous or hazardous.

The jury's verdict was for the estate and he took a general award of \$200,000. A consistent judgment followed.

Auto Negligence - A motor vehicle crash in Montgomery left one driver injured

Turner v. Godwin, 11-900230

Plaintiff: Aaron J. Luck, *McPhillips Shinbaum, LLP.*, Montgomery

Defense: T. Randall Lyons, *Webster Henry Lyons White Bradwell & Black, P.C.*, Montgomery

Verdict: Defense verdict

Circuit: **Montgomery**, 7-10-12

Judge: Truman M. Hobbs

On 4-30-10, Annette Turner and Vicki Godwin were driving along the same street in Montgomery when Godwin collided with Turner. The record does not provide further details about the circumstances of the collision.

Turner was injured in the collision, but the record does not show the nature of her injuries or the amount of her medical expenses.

Turner filed suit against Godwin and blamed her for causing the collision. Her theories included negligence and wantonness. Godwin defended and minimized the damages claimed by Turner.

A Montgomery jury reviewed the evidence and returned a defense verdict. The court entered a consistent

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