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

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Civil Jury Verdicts

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

Legal Negligence - A psychiatrist whose license had been revoked for giving inappropriate prescriptions to patients in exchange for sexual favors claimed he would have had a more favorable outcome if his attorney had timely filed a motion to reconsider his license revocation

Boyd v. Coleman, 10-1529
Plaintiff: Keith W. Veigas, Jr., *The Veigas Law Group, LLC.*, Birmingham
Defense: Matthew Y. Beam, *The Beam Law Firm*, Birmingham; Robert Coleman, *Law Offices of Robert R. Coleman*, Tuscaloosa; Robert P Mackenzie, III, *Starnes Davis Florie, LLP.*, Birmingham
Verdict: $45,000 for plaintiff
Circuit: **Jefferson**, 3-29-13
Judge: Elisabeth A. French

On 9-2-04, DCH Hospital in Tuscaloosa suspended the staff privileges of Dr. Allie Boyd, who had been practicing psychiatry in Tuscaloosa for about 30 years. The allegations leading to Dr. Boyd's suspension were of inappropriate sexual conduct and bribes of prescription medication given in exchange for sexual favors from his patients. Dr. Boyd also allegedly threatened to withhold prescriptions for patients who did not keep the sexual misconduct secret.

For representation in this situation, Dr. Boyd turned to Dr. Robert Coleman, an Alabama physician in family practice since 1980 who has also been an Alabama attorney since 1989. Dr. Coleman, whose law practice was limited to the representation of other physicians in health law matters, agreed to represent Dr. Boyd.

Over the next couple of years, Dr. Coleman was busy representing Dr. Boyd in the numerous legal proceedings in which Dr. Boyd was embroiled. An investigation by the Board of Medical Examiners resulted in a formal administrative complaint by the Board against Dr. Boyd, and a formal hearing took place before the Medical Licensure Commission (MLC) for two days in October of 2006.

At the same time, several of Dr. Boyd's former patients filed civil actions against him. Dr. Boyd later characterized these litigants as a group of criminals and drug addicts whose actions against him were nothing more than an extortion scheme. Dr. Coleman represented Dr. Boyd in the civil actions as well as before the MLC.

After the MLC revoked Dr. Boyd's license on 1-4-07, Dr. Coleman filed a Motion to Reconsider or in the Alternative for Rehearing on 1-31-07. The motion was denied on 3-9-07. An appeal was taken to the Circuit Court of Montgomery County, which denied a motion to dismiss the appeal as untimely and denied the appeal itself on 8-24-10.

Meanwhile, Dr. Boyd was consulting a second attorney, Keith Veigas, about his legal woes. With the assistance of Veigas, Dr. Boyd elected to sue the MLC rather than to proceed with remediation and to request reinstatement of his license after two years. Dr. Boyd did not prevail in his lawsuit against the MLC. Dr. Coleman also withdrew from Dr. Boyd's representation in the former patients' civil cases and was replaced by Veigas.

Thereafter, Dr. Boyd filed suit

against Dr. Coleman and criticized Dr. Coleman's previous representation of him. Dr. Boyd's most serious complaint was that Dr. Coleman should have filed his Motion to Reconsider with the MLC on or before 1-25-07, or 15 days after the MLC's decision to revoke Dr. Boyd's license. Dr. Boyd's identified experts included Champ Lyons III, Attorney, Birmingham.

Dr. Coleman defended and argued that Dr. Boyd's lawsuit against him was itself untimely since it had been filed on 5-24-10, over two years past the date when Dr. Coleman filed the untimely Motion to Reconsider. Dr. Coleman also argued that Dr. Boyd had no evidence to establish that he would have obtained a better result had the Motion to Reconsider been timely filed. Nothing in the MLC's decision suggested it had denied the Motion to Reconsider because of any untimeliness.

A Birmingham jury was unconvinced. After a five-day trial, it returned a verdict of $45,000 in favor of Dr. Boyd. The court entered a consistent judgment. Dr. Coleman filed a motion for judgment notwithstanding the verdict. Before the court could rule on Dr. Coleman's motion, the parties settled.

Auto Negligence - A motor vehicle accident in Mobile County left a driver with back injuries

Addison v. Wilson, 11-902291
Plaintiff: R. Tucker Yance, *Yance Law Firm, LLC.*, Mobile
Defense: James W. Killion, *Killion & Associates, P.C.*, Mobile
Verdict: $75,000 for plaintiff
Circuit: **Mobile**, 4-3-13
Judge: Michael A. Youngpeter

On 6-29-10, Martin Addison was driving near the intersection of Hwy. 43 and Celeste Road in Mobile County. In the next instant, a vehicle driven by Rozhia Wilson and owned by Willie Wilson collided with Addison.

Addison suffered back injuries in the collision. The record does not identify the amount of his medical expenses.

Addison filed suit against Rozhia Wilson and argued Rozhia had caused the collision by bad driving. His theories included negligence and wantonness. Addison also named Willie Wilson as a co-defendant and blamed him for entrusting the vehicle to Rozhia.

The Wilsons defended and minimized the damages claimed by Addison. Willie Wilson was dismissed.

A Mobile jury heard the parties' arguments and returned a verdict of $75,000 for Addison. The court entered a consistent judgment, and it has since been satisfied.

Medical Negligence - An obese, diabetic patient died while undergoing an endoscopic procedure; his estate criticized his healthcare providers for choosing to use conscious sedation during the procedure and for failing to respond promptly to the patient's hypoventilation

Estate of Lahti v. Ala. Gastroenterology Associates, P.C., et al., 09-2265
Plaintiff: Stephen Shay Samples and Ralph D. Cook, *Hare Wynn Newell & Newton, LLP.*, Birmingham
Defense: Randal H. Sellers and Joseph L. Reese, Jr., *Starnes Davis Florie LLP.*, Birmingham
Verdict: Defense verdict
Circuit: **Jefferson**, 4-23-13
Judge: Helen Shores Lee

At 11:00 am on 8-3-07, the 69-year-old Edward Lahti was scheduled to undergo an endoscopic procedure under conscious sedation at Brookwood Medical Center. Dr. David Landy, a gastroenterologist with Alabama Gastroenterology Associates, P.C., planned to perform the procedure.

Lahti was obese and had high blood pressure, coronary artery disease, diabetes, and chronic renal failure. Nonetheless, Dr. Landy believed it necessary to perform an endoscopic retrograde cholangiopancreatography (ERCP) because Lahti was suffering from gallstones, abnormal liver enzymes, chronic cholecystitis, and abdominal pain.

When Dr. Landy prepared for the ERCP, however, he discovered that Lahti had inadvertently been given breakfast that morning. Since Lahti was to be under conscious sedation, he needed to have an empty stomach. Dr. Landy postponed the surgery until 2:30.

About ten minutes into the ERCP, Dr. Landy though he spotted a malignant bile duct cancer. He was attempting to get some diagnostic cells when Lahti's heart rate and breathing started to slow. Dr. Landy did not abort the ERCP and administer reversal agents immediately. Lahti's condition worsened. Shortly thereafter he suffered a full cardiopulmonary arrest.

Dr. Landy resuscitated Lahti as best he could, but it was too late to prevent permanent brain damage. Lahti died a few days later on 8-9-07.

Lahti's estate filed suit against Dr. Landy, Alabama Gastroenterology Associates, and Brookwood and criticized their conduct leading up to Lahti's death. The estate asserted Lahti was not a suitable candidate for conscious sedation as a mode of anesthesia. It also claimed Dr. Landy had not responded to the signs of respiratory depression in Lahti in a timely and appropriate manner.

The estate's identified experts included Dr. Todd Eisner, Gastroenterology, who thought Dr.

Landry should have had an anesthesiologist manage the sedation and that he should have used smaller initial dosages.

The estate subsequently dismissed Brookwood. Dr. Landy and Alabama Gastroenterology defended and denied having breached the standard of care.

During a seven-day trial, a Birmingham jury deliberated for two days before it returned a defense verdict. The court entered a consistent judgment.

Auto Negligence - A car started to turn left into the path of an approaching motorcyclist and then stopped, but it was too late for the motorcyclist to avoid the collision; the motorcyclist suffered multiple fractures, and the jury awarded him 13.5 times his medical expenses

Elliott v. Cordes, 10-900350
Plaintiff: B. Scott Shipman, *Shipman & Assocs., P.C.*, Haleyville
Defense: Thomas R. Jones, Jr., *Jones Wyatt & Davis, P.C.*, Tuscaloosa
Verdict: $350,000 for plaintiff
Circuit: **Walker**, 4-18-13
Judge: Hoyt Elliott

Around noon on 8-25-09, Tommy Elliott was riding his motorcycle southward along Ala. Hwy. 195 in Walker County. In that area, Highway 195 consisted of two lanes, one heading in each direction. The day was clear and the pavement was dry.

Meanwhile, William Cordes was heading northward along Highway 195 in his 2005 Mercury Grand Marquis. He started to turn left onto Langley Road when he realized Elliott was approaching from the opposite direction.

Cordes hit his brakes and stopped, but he was over the center line. An instant later, Elliott struck Cordes.

Elliott's motorcycle was totaled in the collision. He also broke his upper and lower pelvis and suffered a broken ankle. His medical expenses totaled $25,856, and he missed about five months from work.

Elliott filed suit against Cordes and blamed him for causing the accident by failing to keep a proper lookout and failing to yield the right of way. His theories included negligence and wantonness. Elliott also named his two UIM carriers, Progressive Specialty Insurance Company and Illinois National Insurance Company, as co-defendants.

Progressive and Illinois opted out of the action. Cordes defended and argued Elliott was partly to blame for the accident because he had been going too fast and locked up his brakes when he saw Cordes. Furthermore, Cordes insisted, he had only gone over the center line by three feet, and Elliott could easily have passed him if he had retained control of his vehicle.

On the first trial of the case in August 2012, the judge declared a mistrial. When the parties argued a second time before a Jasper jury, the jury returned a verdict of $350,000 for Elliott. The court entered a consistent judgment.

Premises Liability - When a shopper tried to remove a pillow from a store shelf, the shelf fell and struck her in the area of her nose and eye

Butler v. Burlington Coat Factory, 11-904364
Plaintiff: Frank S. Buck, Rachel C. Buck, and J. Brooks Leach, *Frank S. Buck, P.C.*, Birmingham
Defense: David A. Rich and Neal D. Moore, III, *Ferguson Frost & Dodson, LLP.*, Birmingham
Verdict: $26,100 for plaintiff
Circuit: **Jefferson**, 4-19-13
Judge: Robert S. Vance

On 5-16-11, Barbara Butler visited the Burlington Coat Factory store in Hoover to return shoes for a friend and to buy memory foam pillows for her house. In the linen department, Butler spotted a pillow resting in two brackets that had been used to form a "u" shape. When Butler took hold of the pillow to remove it from the shelf, the shelf fell on her and struck her in the nose and eye area.

Butler was injured as a result of the falling shelf. The record does not show the precise nature of her injuries or the amount of her medical expenses.

Butler filed suit against Burlington Coat Factory and blamed it for not erecting its shelves safely. Her theories included negligence and wantonness.

Burlington Coat Factory defended and denied they had been careless in their shelf construction. They suggested Butler might have pulled on the shelf when she tried to grasp the pillow. They also noted that their staff routinely checked for dangers on the floor and no shelf had ever fallen before.

A Birmingham jury listened to both sides before returning a verdict of $26,100 for Butler. The court entered a consistent judgment.

Uninsured Motorist - Plaintiff was awarded nearly four times his medical expenses for injuries he sustained in a crash with an uninsured motorist

Beck v. State Farm Mut. Auto. Ins. Co., 11-900082
Plaintiff: Britt V. Bethea, *Greene & Phillips, LLC.*, Mobile
Defense: Steven P. Savarese, Jr., and Kenneth A. Hitson, Jr., *Holtsford Gilliland Higgins Hitson & Howard, P.C.*, Daphne
Verdict: $50,000 for plaintiff
Circuit: **Covington**, 3-22-13
Judge: M. Ashley McKathan

On 1-13-10, Scotty Beck was in a motor vehicle collision with Lisa Halford in Covington County. Halford was uninsured. The record does not provide further details about the accident.

Beck suffered injuries as a result of the collision and underwent orthopedic surgery. His medical expenses totaled $12,587.

Beck filed suit against Halford and blamed her for causing the collision. His theories included negligence. Halford did not actively participate in her own defense. Instead, State Farm Mutual Automobile Insurance Company, Beck's UM/UIM carrier, intervened and minimized the damages alleged by Beck.

After a two-day trial, an Andalusia jury returned a verdict of $50,000 against Halford and State Farm. The court entered a consistent judgment.

Products Liability - Plaintiff claimed his foot became caught in an automatic gate across a club's driveway; the gate opened and dragged plaintiff forward, resulting in an injury to his leg

Davis v. Hagan Fence Co., 10-1435
Plaintiff: Kendall C. Dunson and Christopher D. Glover, *Beasley Allen Crow Methvin Portis & Miles, P.C.*, Montgomery
Defense: A. Joe Peddy, Jennifer W. Pickett, and Thomas Coleman, Jr., *Smith Spires & Peddy, P.C.*, Birmingham
Verdict: Defense verdict
Circuit: **Mobile**, 4-10-13
Judge: James C. Wood

On 10-29-08, James Davis, a juvenile corrections officer, was working at The Boys and Girls Club of Mobile on Escambia Street in Prichard. The club had a fence at the entry area with a chain-driven gate across the driveway, a manual gate, and a pedestrian entrance.

The chain-driven gate was normally opened from a call or switch box on the premises, and it had a photo-eye system to prevent it from closing prematurely. A slight delay between the photo-eye's registering of an intervening object and the reversal of the gate had been set in order to prevent wear and tear of the gate's motor. In the past, a truck with a trailer had tried to beat the gate and had gotten its trailer caught. A sign on the gate warned it could close without notice.

Davis was doing his final walk-about that day when the driver of a delivery truck arrived and honked to be let into the club grounds through the chain-driven gate. When no one else responded to the delivery truck, Davis allegedly went to the call box and turned the power off and back on again in order to open the gate.

According to Davis, he heard the gate start to open but then start to close before the truck could get through. He then waved his hands in front of the photo-eye to reverse the gate again and make it stay open. While doing this, his foot got caught in a piece of rebar at the bottom of the gate. He was pulled into the truck, and his left leg was injured.

The next day, a technician and a manager for Hagan Fence went out to inspect the gate system and photo-eye. According to them, they found everything in working order. They also did not spot any rebar that could have hooked a shoe and pulled a person along in the way Davis claimed he was pulled.

Davis filed suit against Hagan Fence and blamed it for constructing a defective and dangerous gate system. Hagan Fence defended, denied wrongdoing, and suggested Davis was at least partly to blame because he had decided to stand next to a gate which he knew could close without notice.

A Mobile jury listened to both sides of the dispute before returning a defense verdict. The court entered a consistent judgment.

Auto Negligence - Plaintiff claimed to have suffered back injuries in a rear-end crash; defendant prevailed despite having admitted fault

Pounds v. Billingsley, 09-433
Plaintiff: Daniel B. King, *King & King Attorneys, P.C.*, Gadsden
Defense: H. Edgar Howard, *Ford Howard & Cornett, P.C.*, Gadsden
Verdict: Defense verdict
Circuit: **Etowah**, 4-18-13
Judge: William B. Ogletree

On 8-30-07, Patt Pounds was driving along U.S. Hwy. 431 South near its intersections with Al. Hwy. 168 East and Bethsaida Road in Boaz. Behind her was a second vehicle being driven by Jessica Billingsley. An instant later, Billingsley rear-ended Pounds.

Pounds suffered immediate pain and was later diagnosed with injuries to her neck and back. An MRI taken on 9-13-09 showed she had suffered a herniated disc at the L5-S1 level. She continued to suffer severe pain in her low back and moderate pain in her neck. As a disabled person, Medicare paid her medical expenses.

Pounds filed suit against Billingsley and blamed her for causing the collision. Her theories included negligence and wantonness. Pounds also named her UIM carrier, Auto-Owners Insurance Company, as a co-defendant.

Auto-Owners opted out of the action. Billingsley defended and admitted the collision was her fault, but she disputed Pounds' injury claims. Billingsley noted Pounds was in a second motor vehicle accident in December 2009.

A Gadsden jury listened to both parties before returning a defense verdict. The court entered a

consistent judgment and denied Pounds' motion for a new trial.

Auto Negligence - The verdict was for the defense on contributory fault in a Burger King drive-thru parking lot crash

Van Norman v. Verner, 1:12-362
Plaintiff: Samuel P. McClurkin, IV and Robert J. Hedge, *Citrin Law Firm*, Mobile
Defense: M. Warren Butler and Weathers P. Bolt, *Starnes Davis Florie*, Mobile
Verdict: Defense verdict
Federal: **Mobile**, 7-16-13
Judge: Kristi K. DuBose

Clara Van Norman, a Mississippi resident, proceeded in a Burger King parking lot in Daphne on 6-3-10. She drove around the back of the restaurant parallel to the drive-thru lane. She intended to exit the parking lot and enter the adjoining roadway.

At the same time Amy Verner was in the drive-thru in the process of placing an order. Just after placing her order, she started to make a left-turn to wind around the drive-thru lane to the pick-up window. She would describe the turn as being at a sharp angle. Making that sharp turn was made more difficult as she drove a large Jeep Commander that has a wide turning radius.

As Verner made that turn in the drive-thru, her vehicle protruded from the drive-thru lane. It struck Van Norman as she drove by, a moderate collision resulting.

Van Norman has since treated for a facet joint injury to her neck. Her incurred medical bills were $26,000. In this diversity lawsuit she blamed Verner for crashing into her, the Jeep Commander extending beyond the drive-thru lane.

Verner defended and explained that based on the set-up of the drive-thru lane (the tight turn and her limited turning radius) that she had acted reasonably. She also implicated the plaintiff's own contributory fault. Finally the defense noted Van Norman had a history of a pre-existing neck condition.

The jury answered for the plaintiff that Verner was at fault. However the plaintiff's claim was defeated by contributory negligence, the jury also finding that Van Norman was at fault. That ended the deliberations and the plaintiff took nothing. A defense judgment was entered.

Nursing Home Negligence - When an elderly resident at a nursing home tried to leave her wheelchair without assistance, she fell and suffered a traumatic brain injury from which she did not recover

Estate of Sandefer v. The Village at Cook Springs, 06-215
Plaintiff: S. Shay Samples and Ashley Peinhardt, *Hare Wynn Newell & Newton, LLP*., Birmingham; and Erskine Funderburg, *Trussell Funderburg Rea & Bell, P.C.*, Pell City
Defense: Randal H. Sellers and Joseph L. Reese, Jr., *Starnes Davis Florie, LLP*., Birmingham; and A. Dwight Blair, *Blair & Parsons, P.C.*, Pell City
Verdict: Defense verdict
Circuit: **St. Clair**, 5-3-13
Judge: Phil K. Seay

In March of 2006 Marjorie Sandefer, age 83, was residing at a long-term care nursing home facility known as The Village at Cook Springs. She had previously undergone surgery and was recuperating slowly but steadily.

Despite her progress, Sandefer was still confined to a wheelchair and at high risk for falls. In the four months before her admission to The Village, she had suffered at least two falls, once as a result of getting out of her wheelchair. One of the falls had resulted in a wrist injury. The Village knew she was at high risk for falling.

During her stay at The Village, Sandefer was not provided with a safety chair alarm so that staff were warned when she tried to leave her wheelchair. Staff believed she would notify them if she wanted to get up. Unfortunately, Sandefer did not notify them on 3-17-06 when she got up without assistance and fell.

Sandefer's fall caused her to suffer a depressed skull fracture in the area of her right temple. She was later diagnosed with a brain injury. Although she underwent brain surgery, she did not recover. Her son noted Sandefer's inability to answer questions, become fully alert, or participate in therapy. She died about nine months after her fall of complications relating to the brain injury.

Sandefer's estate filed suit against The Village and criticized it for not having taken greater care to supervise and assist a resident who was known to be at high risk for falls. The estate also named Noland Health Services, the owner/operator of The Village, as a co-defendant. Defendants responded and denied having breached the standard of care.

After a five-day trial, a Pell City jury returned a defense verdict. The court entered a consistent judgment.

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Case Style _____

Jurisdiction _____ Case Number _____

Trial Judge _____ Date Verdict _____

Verdict _____

For plaintiff _____ (Name, City, Firm)

For defense _____ (Name, City, Firm)

Fact Summary _____

_____

Injury/Damages_____

Submitted by: _____

_____

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Underinsured Motorist - After settling with the tortfeasor for injuries she sustained in a rear-end crash, plaintiff sought further compensation from her own insurer
Wilson v. State Farm Mut. Auto. Ins. Co., 11-900814
Plaintiff: Huel M. Carter and Nathan B. Carter, *The Carter Law Firm, LLC.*, Fultondale
Defense: Peyton C. Thetford, *Wade S. Anderson & Assocs.*, Birmingham
Verdict: $50,000 for plaintiff
Circuit: **Jefferson**, 3-13-13
Judge: Tom King, Jr.

On 3-10-09, Sherry Wilson, age 45, was driving a vehicle when she was rear-ended by a second vehicle driven by Matthew Markopoulos. The record does not provide further details about the collision.

Wilson suffered injuries in the accident. The record does not show the nature of her injuries, but she went on long-term disability in 2011 and had surgery on her cervical spine in April 2011. The record does not show the amount of her medical expenses.

Wilson filed suit against Markopoulos and blamed him for causing the collision. Her theories included negligence and wantonness. Wilson also named her UIM carrier, State Farm Mutual Automobile Insurance Company, as a co-defendant.

Markopoulos settled with Wilson for his policy limits of $25,000. State Farm defended and minimized the damages claimed by Wilson.

After a three-day trial, a Birmingham jury awarded Wilson $50,000. The court offset the verdict by the amount of Wilson's policy limits and entered a judgment for Wilson in the amount of $25,000.

Breach of Contract - A loader purchased by a timber producer required frequent repairs and then broke down completely after the hydraulic pump failed; the timber producer made a claim under the warranty and blamed the loader manufacturer for selling him a defective product

Shepherd v. Barko Hydraulics, LLC., 11-900010
Plaintiff: Lynn Jinks and Christina D. Crow, *Jinks Crow & Dickson, P.C.*, Union Springs
Defense: Charlie Eblen and Brandon Gutshall, *Shook Hardy & Bacon, LLP*., Kansas City, MO; and John Waters, Jr., *John Waters Law Firm*, Union Springs
Verdict: $450,000 for plaintiff
Circuit: **Bullock**, 5-2-13
Judge: Burt Smithart

On 9-12-08, Michael Shepherd, a timber producer, bought a Barko 495 ML Loader from G&S Equipment Company. Barko Hydraulics, LLC. built the loader and provided a one-year or 2,000-hour warranty. Cummins Mid-South, LLC and Cummins Inc. made some of the components of the loader. Shepherd financed the purchase through Wells Fargo Equipment Finance, Inc.

After Shepherd bought the loader, he had a number of problems with it. The hydraulic fluid leaked, the hydraulics ran hot, the temperature light stayed on constantly, and he never got the promised fuel efficiency.

Shepherd reported the problems to G&S and asked for his loader to be fixed in accordance with the warranty. G&S fixed at least some of the problems in accordance with its arrangement with Barko.

Ultimately, however, the hydraulic pump on the loader failed and caused the loader to cease working completely. Shepherd was unable to use it in his business, which suffered as a result. Wells Fargo repossessed the loader after Shepherd stopped making payments on it. A judgment was later entered against Shepherd for $124,185.

Shepherd filed suit against Barko, G&S, the Cummins companies, and Wells Fargo and blamed them for selling him a defective loader. In particular, he claimed G&S and Barko had persuaded him to buy it by falsely telling him it had better fuel efficiency than similar other loaders on the market.

Shepherd voluntarily dismissed Cummins, Wells Fargo, and G&S from the action before trial, leaving Barko as the sole defendant. In its defense, Barko denied its loader was defective or that the company had engaged in any deception in promoting it.

Instead Barko suggested the loader's breakdown had been caused by Shepherd's failure to perform necessary maintenance on the loader. The lack of maintenance, according to Barko, had cause decreased fuel efficiency, overheating, and ultimately the breakdown of the hydraulic pump.

In addition, Barko argued Shepherd was not entitled to any damages for lost profits, loss of use of the loader, or repair costs, since Barko's express limited warranty excluded the possibility of recovering for such damages.

After a two-day trial, a Union Springs jury returned a verdict of $450,000 in favor of Shepherd against Barko. The court entered a consistent judgment.

Truck Negligence - A delivery truck pulled into the path of oncoming traffic and caused a collision in which a driver suffered neck and back injuries

Wright v. Bowen, et al., 09-405
Plaintiff: Mark A. Jackson, Huntsville
Defense: Paul A. Miller and Cindy Webb, *Miller Christie & Kinney, P.C.*, Birmingham; and Benjamin Rice, *Wilmer & Lee, P.A.*, Huntsville
Verdict: $118,324 for plaintiff
Circuit: **Madison**, 4-9-13
Judge: James P. Smith

On 12-19-08, Kathleen Wright, age 47, was driving her 1996 Nissan Maxima eastward along University Drive in Madison County. The road was wet. Meanwhile, Sonja Bowen, age 45, a driver for Delivery Specialists, was driving a 2005 GMC box truck northbound along Providence Main Street.

At the intersection of University Drive and Providence Main Street, Wright had the right of way. Bowen, however, pulled out directly into Wright's path in order to make a left turn. Wright hit her brakes but was unable to avoid striking the left rear of Bowen's truck. Bowen did not stop but continued on her way.

Witnesses rushed to help Wright, who was taken to Huntsville Hospital with complaints of back pain. Bowen was pulled over by county deputy sheriffs about eight miles away.

As a result of the collision, Wright suffered neck and back injuries. She underwent cervical fusion surgery. The record does not show the amount of her medical expenses.

Wright filed suit against Bowen and blamed her for causing the accident. Her theories included negligence and wantonness. Wright also named Delivery Specialists as a co-defendant and blamed it for negligent and wanton supervision,

entrustment, hiring, retention, and supervision of Bowen. A third co-defendant was American National Property and Casualty Company, Wright's UIM carrier.

American National opted out of the action. Delivery Specialists argued Bowen had been an independent contractor. When this did not suffice to allow Delivery Specialists to leave the action, Bowen and Delivery Specialists defended and minimized the damages claimed by Wright.

A Huntsville jury heard the parties' arguments and returned a verdict of $118,324 in favor of Wright. The court entered a consistent judgment.

Conversion - A tenant lost her personal property after her landlord filed an unlawful detainer action against her for unpaid rent, entered her apartment, and removed the property

Stewart v. Dennis, 12-900153
Plaintiff: Jarret A. Layson, *Ingrum Rice & Parr, LLC*., Opelika
Defense: Patrick C. "Rick" Davidson and Paul A. Clark, *Adams Umbach Davidson & White, LLP*., Auburn
Verdict: Defense verdict
Circuit: **Lee**, 4-30-13
Judge: Christopher J. Hughes

In October of 2006, Stephanie Stewart leased 12117 Ala. Hwy. 51 in Opelika from Dennis Howard to use as her home. She was to pay $1,600 per month and keep up the premises.

Stewart continued to lease the premises for several years. Howard, however, grew displeased with Stewart's tenancy, and on 6-23-11 he filed a complaint against Stewart for unlawful detainer in a district court. Stewart, however, was not properly served with the complaint until 8-4-11.

On 7-28-11, Howard called Stewart and asked whether she planned to move out or to remain a tenant. Confused, Stewart told Howard she was not planning to move. On 7-28-11, Howard texted Stewart to warn her that her personal property would be placed outside unless she moved.

The next day, Stewart arrived home to find some of her personal property was missing. From a broken window in the front and back of the house, it appeared someone had come through her daughter's bedroom window. When she told Howard about the break-in, he told her he had come through the window. He had broken the window because he didn't have a key.

On 7-30-11, Stewart returned home from work at 10:30 am to find four or five people going in and out of her home. She had not known they were going to come. When they left, she found more of her personal property missing.

Distressed by the situation, Stewart found temporary replacement housing. On 8-17-11, however, she returned to her former leased premises only to find all of her personal property removed from the house and painters working on the building. All of her personal property and effects were missing, so she had retained only the few items she had taken to her temporary quarters.

Stewart filed suit against Howard and blamed him for improper entry into her home and for the loss of her belongings. Her theories included breach of the covenant of quiet enjoyment, conversion, negligence, wantonness, intentional infliction of emotional distress, outrage, trespass, and statutory violations.

Howard defended and denied wrongdoing. He also counterclaimed for unpaid rent and damage to the premises.

Howard later filed for summary judgment on the theory that Stewart should have raised her issues in a counterclaim in the unlawful detainer action. A default had been entered against Stewart in that action on 9-8-11. Stewart argued her claims had not been compulsory counterclaims, and the court allowed her action against Howard to proceed.

Howard voluntarily dismissed his counterclaim on the basis that the district court had already provided him with a judgment. During the case, Stewart asked for the judge, Jacob A. Walker, III, to recuse himself because Howard's counsel was the executor for the estate of the judge's father. Judge Walker granted the motion.

After a two-day trial presided over by Judge Hughes, an Opelika jury returned a defense verdict. The court entered a consistent judgment.

Uninsured Motorist - Plaintiff was injured in a crash with an uninsured driver who was defaulted for not responding to the resulting lawsuit

Tyson v. State Farm Mut. Auto. Ins. Co., 12-900995
Plaintiff: Frank S. Buck, J. Brooks Leach, and Rachel C. Buck, *Frank S. Buck, P.C.*, Birmingham
Defense: Mark C. Peterson, *Wade S. Anderson & Assocs*., Birmingham
Verdict: $110,000 for plaintiff
Circuit: **Jefferson**, 5-23-13
Judge: Robert S. Vance

On 5-1-10, Twana Tyson was driving a 1995 Toyota Corolla on Parkway East in Birmingham when she collided with a 2008 Chevrolet Impala driven by Michael Williams. The record does not provide further details about the accident.

Tyson suffered injuries as a result of the collision. The record does not describe her injuries, but she incurred $20,814 in medical expenses.

Tyson filed suit against Williams and blamed him for causing the collision. Her theories included negligence and wantonness. Tyson also named her UM/UIM insurer, State Farm Mutual Automobile Insurance Company, as a co-defendant.

Williams, who was uninsured, did not respond to the suit. A default judgment was entered against him. State Farm defended and minimized the damages claimed by Tyson.

A Birmingham jury listened to both sides of the dispute before returning a verdict of $110,000 for Tyson. The court entered a judgment of $110,000 against Williams. As for State Farm, the court entered a judgment of $50,000, the amount of Tyson's policy limits, against it. The court denied State Farm's motion for a new trial.

Tractor Negligence - An attorney collided with a tractor-drawn plow that was being pulled slowly along a state highway at night and was lit solely by rear work lights

Vaughan v. Lott, 09-900028
Plaintiff: Julia A. Beasley, *Beasley Allen Crow Methvin Portis & Miles, P.C.*, Montgomery; and J. P. Sawyer, *Sawyer Law Firm, LLC.*, Enterprise
Defense: L. Merrill Shirley and Griffin M. Shirley, *The Shirley Law Firm*, Elba
Verdict: Defense verdict
Circuit: **Coffee**, 4-25-12
Judge: Shannon R. Clark

On the night of 11-27-08 Julius Vaughan, a 62-year-old attorney with the Alabama Department of Industrial Relations, was driving northward on Ala. Hwy. 167 in Coffee County toward Troy. There was also traffic in the southbound lanes. When Vaughan saw white lights ahead of him, he did not react at first. He suddenly realized the lights were in his lane and his vehicle was under them. He glimpsed a disk just before impact.

The lights Vaughan had seen were the rear work lights or "field lights" of a bat wing plow. As it turned out, Carl Lott had been driving a tractor to pull the plow at a slow rate of speed along northbound Highway 167. The plow was unlit except for the field lights.

As a result of the rear-end collision, Vaughan suffered a broken jaw, three lost teeth, and 60 facial fractures, plus damage to his neck, back, hip, and shoulder. He anticipated surgery to restore a large gash on his forehead, a crushed nasal septum, and damage to his eyelids. His healthcare insurer paid $39,755 of his medical expenses, leaving him with an additional $4,724 in out-of-pocket expenses.

Vaughan filed suit against Lott and blamed him for causing the accident by driving a vehicle slowly on a busy road at night without adequate lighting to warn other drivers. His theories included negligence and wantonness. Vaughan's wife Linda made a derivative claim for her loss of consortium. Plaintiffs also named Vaughan's UIM carrier, Alfa Mutual Insurance Company, as a co-defendant.

Plaintiffs sought to recover not only for Vaughan's medical expenses, but also for his lost wages. They calculated his past lost wages as amounting to $21,959. Because he would require future surgery, they estimated his future lost wages at $4,391.

Lott defended and pointed to the fact that the plow had been lit. The record does not show the outcome of Vaughan's claim against Alfa, but Alfa does not seem to have been active at the trial.

An Elba jury reviewed the evidence and returned a defense verdict. The court entered a consistent judgment.

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