

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

September 2006

Published in Louisville, Kentucky

10 K.T.C.R. 9

Comprehensive Statewide Jury Verdict Coverage

Civil Jury Verdicts

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

Medical Negligence - The plaintiff, age 40, suffered a catastrophic hypoxic injury during a colon surgery – she died months later, her estate blaming the injury on bungled communication that delayed the delivery of extra blood after she suffered an intra-operative clotting problem

Beglin v. University Hospital et al, 04-1605

Plaintiff: Jack Conway and F. Thomas Conway, Louisville

Donald K. Brown, Jr. and Michael B. Dailey, *O'Bryan Brown & Toner*, Louisville for Galandiuk

Donald W. Darby and David B. Gazak, *Darby & Gazak*, Louisville for Lerner Defense: Carol Dan Browning, *Stites & Harbison*, Louisville for University Hospital

Verdict: \$9,047,003 for plaintiff assessed against University Hospital only; Defense verdict on liability for Galandiuk and Lerner

Circuit: **Jefferson**, J. Clayton, 7-28-06

Jennifer Beglin, age 40 and a computer programmer with YUM, had a history of Crohn's Disease – in a 1998 surgery, Beglin had part of her colon removed. During that procedure, she suffered significant blood loss because of the failure to clot. This was later linked to a Vitamin K deficiency. This history would be important as Beglin underwent another surgery in 2003.

This time the procedure, performed on 7-14-04 at University Hospital, was designed to relieve pain related to Beglin's rectal stump – her colo-rectal surgeon, Dr. Susan Galandiuk, identified a risk of cancer and it was agreed that the stump would be removed. Providing anesthesia for the surgery was Dr. Guy Lerner.

Beglin had the same problem as in the 1998 surgery – coagulopathy – she was not clotting. As the surgery went into its

second hour, Beglin was losing blood. A comedy of communication errors ensued.

The doctors ordered blood – at University Hospital, a Level One trauma center, there was lots of blood just a floor below the operating room. However the first order for blood was not communicated as STAT – thus it didn't come quickly. Calls continued to

be placed to the blood bank, some twelve in all – the blood still didn't come. By the time the blood did arrive, it was too late.

Beglin had sustained a catastrophic brain injury secondary to blood loss. She lived in a vegetative state for three months until her feeding tube was disconnected. Beglin died on 10-9-03 – two teenagers survived her, William and

New from the KTCR Library
Introducing

The Kentucky Handbook of Curious Injuries

A comprehensive compendium of peculiar, particular and strange injuries for the serious practitioner

In this new volume, we've collected and organized verdict reports by very particular injuries – the book includes a total of forty separate injury categories. It is designed for the serious practitioner who handles complex tort cases.

For instance, have you needed to know for mediation what a suicide verdict was worth? Or a burn injury? Or an overdose? Even more specifically, what about an injury to a person that was already in a wheelchair? Electrocutation? Injuries from exploding airbags? Golf carts? Smell or taste? If you can think of a particular injury, it's in the *Handbook*.

(See the table of contents listed in this issue for the complete list at page 8.)

All the answers are in the *Kentucky Handbook of Curious Injuries*. Each of the above questions is answered in a specific and detailed report that includes not just a summary of the verdicts, but all the verdicts in a snapshot style focusing on the key injury proof.

The Kentucky Handbook of Curious Injuries is the next essential volume in the tort practitioner's library.

Priced at \$149.00, the Handbook is ready to ship.
Call us toll-free at 1-877-313-1944 to order or use the order form in this issue

Kentucky Trial Court Review September 2006 Table of Contents

Verdicts

Jefferson County

- Medical Negligence - *Plaintiff suffered fatal blood loss during surgery – she was critical of hospital staff for not getting blood in a timely fashion to the OR* - \$9,047,003 p. 1
- Sexual Harassment/Retaliation - *Plaintiff alleged harassment and then was fired a day after her deposition* - Defense verdict p. 5
- Dogbite - *Significant hand injury* - \$27,932 p. 7
- UIM - *Rear-ended plaintiff complained of depression/Defense minimized with Granacher* - Defense verdict (on damages) p. 10
- Dogbite - *The court granted a directed verdict in the middle of plaintiff's closing argument* - Directed verdict p. 12

Ohio County

- Medical Negligence/EMTALA - *Taken to the ER, plaintiff's abdominal injuries were missed – she died of a hemorrhage within hours* - \$398,725 p. 3
- ATV Negligence - *Teen ran an ATV into a truck – criticized her friend's father for letting her ride it all* - Defense verdict p. 7

Fayette County

- Auto Negligence - *Motorcyclist suffered broken leg* - \$98,966 p. 4
- Tree Trimming Negligence - *Plaintiff's nose was broken when it was struck by a tree limb* - Defense verdict p. 6

Warren County

- Medical Negligence - *Failure to institute prophylactic treatment to prevent DVT - fatal embolus sustained* - Defense verdict p. 4
- Contract Legal Fees - *Lawyer sued his client to collect his fee* - \$11,732 p. 12

Scott County

- Defamation/Auto Negligence - *Plaintiff alleged she was defamed by a crossing guard who said she was involved in a hit and run* - Defense verdict p. 5

Pike County

- Auto Negligence - *A soft-tissue claim was rejected in Pikeville on damages* - Defense verdict p. 6
- Auto Negligence - *\$500 awarded for suffering* - \$500 p. 7
- Truck Negligence - *Truck struck a car wash* - \$25,000 p. 11

Livingston County

- Auto Negligence - *Roll-over crash/Soft-tissue* - \$35,659 p. 6

Boone County

- Real Estate Contract - *Plaintiff's rural subdivision wasn't so rural – a industrial park was built next door* - Defense verdict p. 7

Federal Court - Louisville

- Auto Negligence - *Pituitary gland disorder linked to a rear-end crash* - \$20,000 p. 10

Daviess County

- Medical Negligence - *Cosmetic defect alleged after breast reduction surgery* - Defense verdict p. 10
- Auto Negligence - *Suffering from a broken finger valued in Owensboro at \$5,000* - \$10,916 p. 12

Boyle County

- Veterinarian Negligence - *Plaintiff's boarded horses sustained injuries while in the care of the defendant* - Defense verdict p. 11

Carroll County

- Breach of Contract - *Dispute over a Mustang* - Defense verdict p. 11

Rockcastle County

- Auto Negligence - *Medicals/No Suffering* - \$370 p. 11

Federal Court - Lexington

- UIM - *Jury awarded \$64,000 for impairment, but nothing for pain and suffering* - \$100,104 p. 12

Graves County

- Medical Negligence - *Error alleged during urological surgery* - Defense verdict p. 13

Supreme Court Tort Opinions

- Punitive Damages* - The award of punitive damages in the absence of a compensatory award does not violate due process p. 13

- Discretionary Review at the Supreme Court** p. 13

Court of Appeals Published Tort Opinions

- Premises Liability* - While in a business invitee circumstance, there is no duty to warn of obvious natural hazards, the rule is different for a landlord and tenant, the landlord owing a heightened duty of care to tenants – in this case, the plaintiff slipped on ice on her apartment steps, the appellate court reversing summary judgment that had been entered for the complex p. 14

Verdicts Revisited

- FELA* - An appeal challenging evidentiary questions in a toxic exposure case was rejected p. 14

- Premises Liability* - While it was error not to strike two venire members for cause, the error is harmless as the plaintiff used strikes to dismiss the jurors and the tainted jurors ultimately did not deliberate the case p. 15