

Historical Louisiana Jury Verdicts

In this section, we include verdict reports from interesting and notable Louisiana civil jury trial from prior years. These reports originally appeared contemporaneously in our sister publication, The Federal Jury Verdict Reporter.

Products Liability - A dentist in New Orleans had his hand mangled in a lawnmower accident

Schmidt v. MTD Products, 2:04-3412

Plaintiff: Robert E. Barkley, Jr. and
Thomas F. Schwab, *Barkley & Thompson*, New Orleans

Defense: Christopher A. Holecock,
Wegman Hessler & Vanderburg, Cleveland, OH and Craig R. Nelson, *Nelson Fay*, New Orleans

Verdict: \$1,039,000 for plaintiff

Court: **Federal - New Orleans**

Judge: Carl Barbier

Date: 7-14-06

Facts: William Schmidt, then age 56 and a dentist in a New Orleans suburb, was cutting his grass on 11-14-03 aboard an MTD Products riding lawnmower. A tricky bit of work, Schmidt's backyard is bordered by a six-foot wide drainage ditch – his yard slopes away at a 24 degree angle to the ditch.

As Schmidt cut his grass near that border, the lawnmower suddenly lurched forward towards the slope. Schmidt attempted to jump off, but found himself in the path of the lawnmower. He stuck up his hand to protect himself. It was badly mangled by the lawnmower's blades and one finger was partially amputated. The injury and resulting arthritis has devastated Schmidt's active dental practice.

In this products suit, he alleged a defect in the lawnmower – that is, it lurched forward because a speed control link broke. As presented to the jury, Schmidt alleged strict liability, design defect and inadequate warning. His wife, Wanda, presented a derivative consortium claim.

MTD defended on several fronts. It first argued that the lawnmower, built in 1991 at its Indianola, MS plant, only had a ten-year life expectancy. Then to Schmidt's tenure, the company explained that there was no maintenance of the lawnmower, Schmidt exposing it to abnormal wear. Thus the lawnmower worked as it should have – Schmidt simply abused it.

The company also implicated plaintiff's own care – in this regard, it cited his cutting pattern in coming to close to the border slope. Damages were also diminished, the company noting that while Schmidt may be impaired from a dental practice, he could still mitigate his damages by becoming a dental supply salesman.

Schmidt prevailed on strict liability, the jury rejecting design defect and warning claims. The jury further found MTD solely at fault. Moving to damages, Schmidt took an award of \$1,039,000, his wife's consortium interest being rejected. Pending is MTD's motion that has called the award excessive. It noted in this regard that there was little basis for an award of future economic damages as Schmidt's dental practice has since been decimated in any event by Hurricane Katrina.

Food Server Negligence - After enjoying a rack of lamb at a pseudo-Australian restaurant, the plaintiff complained of food poisoning – he had severe vomiting that he linked to a herniated disc

Corkern v. Outback Steakhouse,

2:05-5487

Plaintiff: Carter B. Writh and Ernest N. Souhlas, Covington, LA

Defense: Kurt S. Blankenship and
Ryan J. Roemershauser, *Blue Williams*, Metairie

Verdict: Defense verdict on liability

Court: **Federal - New Orleans**

Judge: Sarah S. Vance

Date: 6-19-07

It was 10-16-04 and Kevin Corkern ate dinner at the Outback Steakhouse in Covington, LA. The restaurant serves food with names taken from the continent of Australia. This night, Corkern ate a rack of lamb. Two days later, he was vomiting – when there was nothing left in his stomach, he had dry heaves. The symptoms passed and Corkern didn't seek medical treatment.

Nearly two years later, he underwent a disc repair surgery. It was Corkern's proof that the disc injury was related