

The Louisiana Jury Verdict Reporter

The Most Current and Complete Summary of Louisiana Jury Verdicts

January 2013

Statewide Jury Verdict Coverage

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Louisiana including court, division, presiding judge, parties, case number, attorneys and results.

Utility Negligence - A lineman from Oklahoma working to restore power after Hurricane Gustav suffered serious injuries when he inadvertently contacted a downed power line that had been inadvertently energized - in this lawsuit the lineman alleged negligence by Entergy in failing to supervise the restoration work

Scarberry v. Entergy, 09-7545

Plaintiff: Joseph E. "Jed" Cain,

Jennifer J. Greene and Herbert A.

Cade, Herman Herman & Katz, New Orleans

Defense: Cory R. Cahn and Gary M. Carter, Jr., *Entergy Legal*, New Orleans
Verdict: \$8,050,000 for plaintiff

assessed 50% to the defendant

Parish: **Orleans**

Judge: Christopher Bruno

Date: 11-8-12

Buddy Scarberry, then age 49 and of Tecumseh, Oklahoma, was doing electrical repair work for Oklahoma Gas & Electricity in Louisiana after

Hurricane Gustav on 9-14-08. Particularly he was helping repair the electrical system near Lacassine. As Scarberry worked, he came in contact with a downed powerline that had been inadvertently energized by a co-worker.

The impact of the shock caused Scarberry to be thrown several feet into a nearby pond. The shock left Scarberry with severe burns to his chest and feet. The burns to his feet were so severe that Scarberry later underwent a partial amputation. He continues to suffer from neurological damage that has left him permanently disabled. Scarberry has also suffered from post-traumatic stress related to this incident. His medical bills were \$267,531.

In this lawsuit Scarberry sued Entergy and alleged negligence by it in supervising the Gustav restoration work being performed on its property. The key liability expert for Scarberry was J. Bradley Shepherd, Electric Utility Safety, Bushnell, FL.

Scarberry's damage proof was developed by several experts. They included: Arthur Joyce, Neuropsychology, Vernon, TX, Dr. Howard Katz, Physical Medicine, Jackson, MS, Dr. Roger Pitman, Psychiatry and PTSD research, Charlestown, MA, Rodney Isom, Life Care Plan, Irving, TX and Richard Thompson, Economist, Clemson, SC.

Entergy defended the case and denied fault. It sought to apportion fault to both Scarberry and his employer. In this regard Entergy noted Scarberry worked for a highly skilled sister utility company and that he and that utility were solely to blame. Entergy's expert was Frederick Brooks, Electric Utility Safety, Baton Rouge.

This case was tried in New Orleans

over two weeks. The jury first found that Entergy was negligent regarding the incident. It also found fault with Scarberry and his employer. That fault was then assigned 50% to Entergy, 20% to Oklahoma Gas and the remaining 30% was assigned to Scarberry.

Turning to damages Scarberry took medicals (past and future) of \$3,000,000. His lost wages (including future lost earnings) were \$300,000. Loss of enjoyment of life was \$250,000, permanent disability being valued at \$1.5 million. Mental anguish was \$1,000,000, Scarberry taking \$2,000,000 more for pain and suffering. The raw verdict totaled \$8,050,000.

The court's judgment was for Scarberry against Entergy less 50% comparative fault. However because of a pre-trial agreement, Entergy was obligated to pay for the assessment of any fault to Scarberry. Thus the final award to Scarberry was \$6,444,000 (\$8,050,000 less 20%). It is learned that Entergy made no offer to Scarberry before trial.

Products Liability - In this class action test case involving Chinese Drywall, the plaintiffs sought a declaration that a distributor of the drywall was a "bad faith" seller of the product – the distinction was significant as if so designated for purposes of a redhibition theory, the distributor would be responsible for all damages flowing from the defective drywall – by contrast if not so designated, the distributor would only be responsible to reimburse the costs of the drywall itself

Chinese Drywall Multi-District

Litigation, 2:09-2047

Plaintiff: Gerald E. Meunier, Gainsburgh Benjamin David Meunier & Warshauer, New Orleans, Christopher Seeger and Scott A. George, Seeger Weiss, New York, NY, Daniel K. Bryson, Whitfield Bryson & Mason, Raleigh, NC and Anthony Irpino, New Orleans

Defense: Richard G. Duplantier, Jr., Benjamin R. Grau and Carlina C. Eislen, Galloway Tompkins Burr & Smith, New Orleans, Kevin Risley, Thompson Coe, Houston, TX and Sidney J. Angelle, Lobman Carnahan Batt Angelle & Nader, New Orleans

Verdict: Finding that defendant Interior Exterior was not a bad faith seller for purposes of redhibition

Federal: **New Orleans**

Judge: Eldon Fallon

Date: 12-3-12

Following the devastation of Hurricane Katrina in August of 2005, there were thousands of homes and other businesses that needed reconstruction and repairs. Much of that work was accomplished with the use of Chinese drywall. A key local distributor in Louisiana of that drywall was Interior Exterior Building Supply.

It would later be determined that

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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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\$1,850 more for future care. The jury added \$8,000 each for pain and suffering, mental anguish and loss of enjoyment of life. The verdict totaled \$32,650. A consistent judgment was entered.

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