

# The Louisiana Jury Verdict Reporter

The Most Current and Complete Summary of Louisiana Jury Verdicts

June 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.

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**Legal Malpractice - The insurer of a vessel hit by a \$3.5M personal injury verdict filed this legal malpractice suit against the firm that represented its insured in that matter - the insurer complained that counsel failed to assert a limitation of liability and the comparative fault of the other entities involved in the underlying accident**

*Heather Lynn, et al v. Lugenbuhl  
Wheaton Peck Rankin & Hubbard,  
11-6804*

Plaintiff: Randall A. Smith and J. Geoffrey Ormsby, *Smith & Fawer*, New Orleans  
Defense: David S. Daly and Elliot M. Lonker, *Allen & Gooch*, Metairie  
Verdict: Defense verdict on liability  
Parish: **Orleans**  
Judge: Christopher F. Bruno  
Date: 3-22-13

Indemnity Insurance Company of North America (IINA) issued a \$1,000,000 marine policy to Heather Lynn, Inc. from 8-26-05 to 8-26-06 for the M/V Captain Rayne. Following an

**Medical Malpractice - A patient's common bile duct was injured during the removal of his gallbladder - he claimed to have suffered compromised liver function as a result**

*Logan v. Schwab*, 165-756

Plaintiff: Brent P. Frederick, Michael T. Beckers and Eric M. Barrilleaux, *Dodson Hooks & Frederick*, Baton Rouge

Defense: John D. Schoonenberg and Barry J. Boudreaux, *Henderson Reilly & Boudreaux*, Houma

Verdict: Defense verdict on liability

Parish: **Terrebonne**

Judge: Timothy C. Ellender

Date: 1-17-13

On 8-24-10 Richard Logan, then age 41, underwent a scheduled laparoscopic removal of his gallbladder at Physicians Medical Center in Houma, which was supposed to be a 20 minute outpatient procedure. During the surgery, the surgeon, Dr. Donald Paul Schwab, Jr., severed Logan's common bile duct.

Thereafter, the doctor converted the laparoscopic procedure to an open surgery in an attempt to correct liver damage, cauterizing the remainder of the bile duct, along with both the left and right hepatic ducts. He chose not to perform a cholangiogram. Despite these efforts, Logan required emergency transport to Ochsner Foundation Hospital in New Orleans, where he underwent an eight hour surgery at the hands of multiple transplant team doctors in an attempt to salvage his liver.

Logan thereafter filed suit against Schwab alleging that the negligent injury to his common bile duct compromised his liver function. He also claimed lack of informed

consent with regard to the potential complications that the surgery could present. He asserted past medicals totaling \$175,000. His wife asserted a claim for loss of consortium. Plaintiff presented his treating surgeon, Dr. Ian Carmody, New Orleans, as well as Dr. Leo Murphy, General Surgery, San Diego, Randolph Rice, Economist, Baton Rouge, and Stephanie Chalfin, Vocational Rehabilitation, Baton Rouge.

Schwab defended that during the surgery he discovered a badly infected gallbladder showing signs of gangrene, as well as a large amount of bile leaking from the liver, and realized there was a complication. He immediately converted the surgery to an open procedure and recognized that the complication was from an injury to the common bile duct.

Appreciating the complexity of the injury, Schwab immediately contacted a liver transplant specialist at Ochsner instead of proceeding. Dr. Ian Carmody told him to place a catheter into both the left and right hepatic ducts. He contended that further examination revealed that the extent of inflammation was such that the cystic duct had become obliterated at its origin and the infundibulum of the gallbladder had become fused to the common bile duct. Therefore, the tubular structure entering the gallbladder, identified as the cystic duct, was actually the common bile duct. His experts included Dr. David Rau, General Surgeon, Houma, Dr. Robert Normand, General Surgeon, Metairie, and Dr. Edward Staudinger, General Surgeon, New Orleans.

After a three day trial, a Houma jury returned a verdict in favor of the

defense. It found that plaintiff did not prove the standard of care applicable to general surgeons performing laparoscopic gallbladder removal surgery. A judgment has not yet been entered.

**Medical Malpractice - A chronic pain patient had a pain pump with an intrathecal spinal catheter implanted and developed bacterial meningitis caused by a post-operative infection - an emergency injection of an antibiotic into the woman's cerebral spinal fluid caused a seizure - as a result, she now suffers from brain damage - her suit blamed the doctor's mismanagement of her infection, as well as his administration of the antibiotic**

*Green v. Hubbell*, 561-466

Plaintiff: Daniel J. McGlynn and Eric E. Helm, *McGlynn Glisson & Mouton*, Baton Rouge

Defense: Bruce A. Craner and Toni J. Ellington, *Frilot, LLC*, New Orleans

Verdict: \$750,000 for plaintiff, reduced to \$650,000 due to statutory caps

Parish: **East Baton Rouge**

Judge: Wilson E. Fields

Date: 1-18-13

Sandra Lea Green suffered a foot injury when a piece of equipment dropped on her foot while she was working as a nurse. As a result, she suffered chronic pain, which was treated by Dr. Paul J. Hubbell, III and Dr. Cynthia Glass.

On 11-13-03, Green underwent surgery at the hands of both doctors to implant a pain pump with an implanted indwelling intrathecal spinal catheter. On 11-24, complaining of severe abdominal pain, Green was admitted to Women and Children's Hospital with a

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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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Joseph's job was cut. The school board explained that he was let go as a part of a reduction in force. His principal was instructed to let go two teachers. The principal would later explain that she made a decision to maintain her core of teachers in classes like auto mechanic training

and nurse assistant.

Why was Joseph's job cut? The principal cited that he (and the other fired worker) were support staff, not teaching a core class, but instead an ancillary position like teaching "job skills."

Joseph thought the reasons given by the school board were a pretext to

mask national origin discrimination. He cited a history of remarks by co-workers and other bigwigs at the school. Beyond the termination count alleging discrimination, Joseph also presented a retaliation count – that is, the school board did not later rehire him because he had complained. The school board denied both counts as

McGee's mother \$5,000 for her loss of love, affection and companionship, \$5,000 for her grief and anguish, \$15,000 for funeral expenses and \$25,000 in medicals. A judgment had not yet been entered at the time the record was reviewed, but it will presumably reduce the total \$50,000 award to \$5,000 for Forrestier's share of fault.

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### A Notable Mississippi Verdict

#### **Malicious Prosecution - A patron and dealer at Lighthouse Point Casino were suspected of cheating and both were arrested - after being acquitted at a criminal jury trial, the patron turned the tables and advanced a malicious prosecution theory**

*White v. Greenville Riverboat*, 10-58

Plaintiff: L. Douglas Wade, Jr., *Wade Law Firm*, Greenville

Defense: Brett M. Bollinger, *Zaubrecher Treadaway*, Covington, LA

Verdict: Defense verdict on liability

Court: **Greenville, Mississippi Washington Circuit Court**

Judge: Betty W. Sanders, 4-4-13

Renover White, a captain with the Greenville Fire Department, regularly played 21+3 at Lighthouse Point Casino in Greenville. It is a card game that mixes blackjack and three-card poker. On 5-13-09, he was playing when the dealer (Shatawna Thomas) failed to shuffle two of the six decks with which they were playing and then dealt White a series of winning hands.

The casino's surveillance director contacted the Mississippi Gaming Commission, who instructed him to detain White if he tried to leave. When that time came, White was

stopped and told that the gaming commission wanted to speak with him. He waited and was interviewed.

Both White and the dealer were then both arrested. White was offered a plea deal that included no jail time, but he refused to take it. At the criminal trial in January 2009, he was found not guilty.

White then filed this suit against the casino, asserting claims for malicious prosecution, abuse of process and outrage. He claimed that casino officials led the gaming commission to believe that he had cheated with the same dealer on a prior occasion, although they knew that he had not.

White also alleged that the casino withheld important information from the gaming commission that showed that he was innocent. The report falsely stated that White raised his bet on hands during which the unshuffled cards came out. Plaintiff sought lost wages, as well as damages for his loss of reputation.

The casino defended that after White won \$5,000 in less than 15 minutes, it began to watch him more closely and saw that cards were being dealt in sequential order. The casino notified the gaming commission as required by statute and was instructed to detain White if he tried to leave the premises.

After gaming commission officials arrived to interview White, they took complete control over the situation and conducted their own independent investigation. It was the gaming commission that made the decision to arrest, not the casino.

After a three-day trial in Greenville, the jury returned a verdict for the defense. A judgment consistent with the jury's verdict

followed.

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