

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

October 2012

Statewide Jury Verdict Coverage

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Mississippi including court, division, presiding judge, parties, case number, attorneys and results. Notable results from the southern region, including Memphis and New Orleans, are also covered.

* * * Introducing * * *

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Workplace Negligence - While the plaintiff was repairing an oil well, a valve fell from a derrick and struck him in a head – the impact resulted in an open skull fracture (brain matter leaking) and a very serious and permanent brain injury – the injury was blamed on other contractors at the site who had failed to maintain or secure the valve

Tanner v. Eagle Oil et al, 111-0013
Plaintiff: Norman Gene Hortman, Jr. and Christopher B. McDaniel, *Hortman Harlow Bassi Robinson & McDaniel*,

Laurel
Defense: Charles G. Copeland and Timothy J. Sterling, *Copeland Cook Taylor & Bush*, Ridgeland for V.A. Sauls Joseph A. O'Connell and Mark A. Nelson, *Bryan Nelson*, Hattiesburg and Robert A. Miller and Kyle V. Miller, *Butler Snow O'Mara Stevens & Cannada*, Ridgeland for Eagle Oil
Verdict: \$36,000,000 for plaintiff assessed 60% to V.A. Sauls and 40% to Eagle Oil
Court: **Jasper (Pauling)**
Judge: Eddie Bowen
Date: 8-15-12

Jack Tanner, then age 52, was working

on 11-12-10 on the repair of a salt water disposal well. His employer (B&B Oil Field Services) had been contracted to repair a leak in the well. To make that repair the tubing had to be removed. The well was owned by Eagle Oil – a second party, V.A. Sauls, Inc., was hired to repair the tubing.

As the work was being done, a valve high on the derrick came loose. It had essentially untwisted itself. The heavy valve fell from the derrick and struck Tanner in the head. It resulted in an open skull fracture, there being proof that cerebral contents were leaking.

Tanner was knocked out by the impact and remained in a coma for a week. He has since suffered a serious permanent brain injury. Its effects have included significant cognitive dysfunction, including a personality change, speech problems and an effect on his dexterity. His claimed economic damages were \$9,033,000, the biggest part of that figure was \$7.7 million representing a life care plan. The incurred medicals were \$702,907. His wife also presented a consortium claim.

In this lawsuit Tanner and his wife alleged negligence by both Eagle Oil and V.A. Sauls regarding this incident. Eagle Oil was blamed for its failure to maintain the valve. V.A. Sauls too was implicated for failing to secure the valve before the company began the tube repair.

Experts on liability for Tanner were Richard Baratta, Engineer, Houston, TX and R.E. Garza, Petroleum Engineer, Houston, TX. The life care plan was valued by Paul Deutsch, Oviedo, FL, Tanner's injury being confirmed by Dr. Richard Bonfiglio, Physical Medicine, Murrysville, PA and Geoffrey Kanter, Neuropsychology, Sarasota, FL. James Koerber, CPA, Hattiesburg, put numbers to the claims for economic damages.

Eagle Oil and V.A. Sauls defended the case and pointed fingers at one another – V.A. Sauls suggested the value was not properly maintained, Eagle Oil replying that the valve had not been secured by V.A. Sauls. The defendants were joined in implicating the fault of Tanner in failing to protect himself, noting he was

not wearing a hard hat. There was proof from Dr. Jack Moriarty, Neurosurgery, Flowood, that had he worn a hard hat, the injury would have been lessened. A rebuttal expert (Dr. Michael Molleston, Neurosurgery, Jackson and also a treating doctor) rebutted this notion.

The defendants also sought to apportion fault to two non-parties, the plaintiff's employer and Rainbow Tools. Defense experts for Eagle Oil were John Lacy, Brenham, TX, Kirk Thibault, Engineer, Exton, PA, Bruce Brawner, Life Care Plan, Madison and Gerald Lee Economics, Clinton. A petroleum engineer expert for V.A. Sauls was James Owen, Pachuta.

While the jury in this case was drawn from Paulding, the case was tried in a Bay Springs courtroom. Then as the jury deliberated, it had a question for the court: What is the total amount the plaintiff is asking for? Judge Bowen answered that the jury would have to rely on its own memory.

The jury then returned a verdict finding both Eagle Oil and V.A. Sauls negligent. It rejected the apportionment of any fault to either the plaintiff, his employer or the non-party Rainbow Tools. Fault was then assessed 60% to Eagle Oil and then 40% more to V.A. Sauls.

Turning to damages Tanner took economic damages of \$9,000,000. The jury valued the non-economic variety at \$18,000,000. His wife took \$9,000,000 more for her consortium interest, the verdict totaling \$36,000,000.

A month following the trial no judgment had been entered. The defendants have suggested a judgment consistent with the state's still prevailing \$1,000,000 cap on non-economic damages. Tanner has similarly challenged the statutory cap in his proposed judgment and cited the recent opinion from a trial judge (Charles Webster) in Coahoma County (*Carter v. Sunflower Lane*, 14-CI-09-19) where the cap was struck. See Case No. 209 in the 2011 Year in Review for the original verdict report.

Alienation of Affections - A Vicksburg orthopedist was blamed by an angry husband for ruining a happy marriage – the doctor defended that there was no alienation as the marriage was already rocky, husband and wife sleeping in separate bedrooms

Stokes v. Dare, 09-108

Plaintiff: Michael J. Malouf and William E. Ballard, *Malouf & Malouf*, Jackson
Defense: Stuart B. Harmon and C. Maison Heidelberg, *Heidelberg Harmon*, Ridgeland

Verdict: \$150,000 for plaintiff

Court: **Warren**

Judge: M. James Chaney, Jr.

Date: 9-7-12

Paul and Sharon Stokes, who were high school sweethearts, were married in May of 1985. Paul made a career at Entergy, while Sharon worked as a nurse. The years passed and the pair had a son in 1997. The trouble for the Stokes marriage started in October of 2007. At that time Sharon began a romantic relationship with Daniel Dare. Dare is a Vicksburg orthopedist.

Paul discovered the affair (relying in part on a private investigator) and it led to the break-up of his marriage. Following the divorce Sharon and Dare were together for a time. Ultimately their relationship ended as well.

Following that second break-up Sharon pursued a civil claim against Dare related to her employment as a nurse with his medical office. Dare settled the claim and paid Sharon \$110,000. Then within days of that settlement, Paul moved to amend his original divorce decree with Sharon – it had originally provided a covenant not to sue each other or anyone else regarding the break-up of the marriage. A chancellor granted the amendment.

With that impediment out of the way, Paul filed this alienation of affections lawsuit against Dare. His theory was simple – the doctor pursued his wife and induced her to abandon the marriage. That the marriage was destroyed, Paul pointed to photographs of a happy family enjoying a family vacation at Disney World in Florida.

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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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was poorly built, there being erosion and sink hole problems. It sought some \$225,000 in damages related to the purported shoddy construction. The counterclaim was denied by Clay Construction.

The verdict was mixed at trial. Clay Construction prevailed on the contract count and took damages of \$166,631 in a handwritten verdict form. The counterclaim was rejected. A consistent judgment was entered. Clay Construction has since sought to collect the judgment. That included executing on a bank account and recovering \$5,139. A judgment debtor examination

has also been scheduled.

Race Discrimination - An applicant (who is black for a prison guard position alleged she was not hired because of her race, a hiring official referring to "you people" in explaining the decision - the government defended that she was not hired because of an inconclusive drug test

May v. MS. Dept of Corrections,
3:10-180

Plaintiff: Samuel Fisher and Toni J. Braxton, *Wiggins Childs Quinn & Pantazis*, Birmingham, AL and James K. Littleton, III, *Littleton Law Office*,

Greenwood

Defense: Malissa W. Winfield, *Assistant Attorney General*, Jackson

Verdict: Defense verdict on liability

Federal: **Jackson**

Judge: Tom S. Lee

Date: 8-8-12

Vikki May applied for a position as a prison guard in October of 2007. It was a part of a rapid-hire session. She was offered a position pending a drug test. Her drug test was inconclusive and suggested cocaine use. The offer was rescinded. May denied using drugs.

May confronted the hiring decision-maker about the rescinded job offer. The

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