

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

August 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.

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Medical Malpractice - In this interesting case involving a pregnancy-related brain injury to the baby, it was initially alleged the mother was not given enough of an anti-seizure medication – as the litigation progressed, the theory changed, the plaintiff developing that the mother was given too much of the drug – a Jackson jury (after the case took a trip to the Supreme Court) ultimately resolved the case for the doctors fifteen years after the girl's birth

Malouf v. Fredericks et al, 03-77

Plaintiff: Michael J. Malouf, Sr. and Michael J. Malouf, Jr., *Malouf & Malouf*, Jackson and William Walker, II, *Walker & Associates*, Jackson

Defense: L. Carl Hagwood, Greenwood and Diane P. Pumphrey, Jackson, both of *Wilkins Stephens & Tipton* for Fredericks Whitman B. Johnson, III and Katrina S. Brown, *Currie Johnson Griffin Gaines & Myers*, Jackson for Tucker

Verdict: Defense verdict on liability

Court: **Hinds**

Judge: Tomie Green

Date: 6-12-12

Kristine Malouf treated for seizures in

Wise, Pediatric Neurology, Houston, Patterson Culbertson, Economist, Baton Rouge and Lisa Busby, Life Care Plan.

Carey's defense of the case first focused that Banks's presentation was at first consistent with premature labor and not a placental abruption. Facing that appropriate diagnosis, Carey then stabilized and transferred her to Jackson. He also focused that regardless of his intervention, Ryheim's outcome would have been poor, it being the prematurity (and not the abruption) that resulted in Ryheim's injuries. Carey's experts were Dr. Elias Chalhub, Pediatric Neurology, Mobile, AL (injury, causation and life expectancy), Dr. Chris Glick, Neonatology, Jackson (Ryheim wouldn't have survived if born in Natchez), Dr. John Morrison, Ob-Gyn, Jackson and Liz Robinson, Life Care Plan, Brandon.

This case was tried in Natchez for a week. The verdict (it was handwritten) was for Carey by a 9-3 count and the plaintiff took nothing. A defense judgment was entered.

Medical Malpractice - An EMT was blamed for so-called negligently bagging in attempting to develop an airway in a patient that was in the midst of a seizure

Howell v. George County EMS, 08-305
Plaintiff: Edward Gibson, *Hawkins Gibson*, Bay St. Louis

Defense: James H. Heidelberg, *Heidelberg Steinberger Colmer & Burrow*, Pascagoula

Verdict: Defense verdict on liability

Court: **George**

Judge: Kathy Jackson

Date: 1-24-12

Judy Howell, then age 57, collapsed at home in the midst of a so-called tonic clonic seizure. Her daughter called for an ambulance. It came in the form of the George County EMS which is a part of the local hospital. [Both are state agencies.]

The paramedic that arrived with the ambulance was Paula Henderson. Per doctor's orders, Henderson medicated Howell first with Ativan to stop the seizures. She also gave Howell a muscle relaxant (Versed) because Howell's jaw

was clinched.

Thereafter Henderson attempted to intubate Howell. During that process, Howell sustained a tracheal injury. Upon her arrival at the hospital, her lungs had collapsed. She had also suffered a hypoxic brain injury. Howell's recovery was long and complex – her medical bills were \$127,000.

In this lawsuit Howell sued George County EMS and alleged a so-called negligent bagging by Henderson. The theory was two-fold, (1) Henderson giving too much Versed which depressed Howell's respirations and led to the need for intubation, and (2) bungling the tracheal attempt and using too much force. The plaintiff's experts were Dr. Benjamin Hudson (a treating doctor at Singing River Hospital) and Dr. Mark Galtelli, ER, Madison.

George County EMS defended on several fronts. It first noted that Henderson only gave the medications per doctor's orders. She also described that her attempts to intubate were proper. Defense experts were Dr. Michael Stodard, ER, Jackson and Delia Owens, RN, Madison.

This Tort Claims Act case was tried as a bench trial before Judge Jackson. She ruled for the paramedic that the medications were given as ordered by the doctor and that her tracheal attempt was not substandard. Howell has appealed from the court's order. It is learned that since the filing of the appeal, Howell died in June of other causes.

Breach of Contract - A consultant (a former building inspector) to a home construction firm sued to enforce his consulting agreement

Carrigee v. Anchor Custom Homes, 09-26

Plaintiff: Edward Gibson, *Hawkins Gibson*, Bay St. Louis

Defense: William "Alex" Brady, II, *Brady Law Firm*, Long Beach

Verdict: \$24,000 for plaintiff

Court: **Hancock**

Judge: Lawrence P. Bourgeois, Jr.

Date: 4-12-12

William Carrigee was formerly a local building inspector in Bay St. Louis. He

know operates a consulting firm. He entered a deal in 2006 to provide consulting services (regarding code compliance) to Anchor Custom Homes. [Anchor's principal is Gerald Mallon – it is in the business of residential construction.]

The contract provided that Carrigee would be paid \$24,000 and 5% commission on any sales. Thereafter Carrigee alleged Anchor failed to pay either the \$24,000 or the commission. In this lawsuit Carrigee sought to enforce the contract. The court directed a verdict on the commissions claim.

Anchor defended the case that (1) Carrigee did little or any consulting, and (2) Carrigee misrepresented his expertise. Anchor had also presented a negligent consulting counterclaim that did not advance to trial.

Carrigee prevailed at trial, the jury in its handwritten verdict awarding him \$24,000. A judgment in that sum was entered. Carrigee thereafter made attempts to collect the judgment via a debtor's examination.

That did not go well for the defendant's principal (Mallon) who apparently offended the presiding Judge John Gargiulo. Following the first attempt at a debtor's examination, Gargiulo jailed Mallon for *four* days. The exam was later completed without incident.

Medical Malpractice - The plaintiff linked a brachial plexus birth injury to the use of excessive force and the failure to appreciate the baby's large size (because of gestational diabetes) by the delivering Ob-Gyn

Knighton v. Gibbs-McKee, 02-404

Plaintiff: James A. Bobo, *Akers & Bobo*, Brandon

Defense: J. Leray McNamara and Stephanie C. Edgar, *Jones Walker*, Jackson

Verdict: Defense verdict on liability

Court: **Rankin**

Judge: William Chapman, III

Date: 2-9-12

Jennifer Knighton treated during her 2001 pregnancy with an Ob-Gyn, Dr. Lisa Gibbs-McKee. A sonogram taken in the fifth month of her pregnancy revealed the

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