

The 2006 Medical Negligence Report

This report summarizes the statewide totals, including considering the results by separate categories. Also included are summaries of the largest verdicts, verdict ranges, verdicts sorted by case type, and the attorneys who try these cases.

2006 Statewide Summary

A look at the statewide totals from 2006

<u>Statewide totals</u>	<u>Medical Trials</u>	<u>Win-Loss %</u>	<u>Aggregate Verdicts</u>	<u>Plaintiff's Average</u>	<u>Average</u>
<i>Statewide totals</i>	30	7-23 23.3%	\$19,300,458	\$2,757,208	\$643,348
<i>Davidson County only</i>	2	0-2			
<i>Shelby County only</i>	6	0-6			
<i>State Excluding Shelby & Davidson</i>	22	7-15 31.8%	\$19,300,458	\$2,757,208	\$877,293

2005 Statewide Summary

A look at the statewide totals from 2005

<u>Statewide totals</u>	<u>Medical Trials</u>	<u>Win-Loss %</u>	<u>Aggregate Verdicts</u>	<u>Plaintiff's Average</u>	<u>Average</u>
<i>Statewide totals</i>	46	5-41 10.9%	\$18,883,233	\$3,776,646	\$410,505
<i>Davidson County only</i>	15	2-13 13.3%	\$18,200,000	\$9,100,000	\$1,213,333
<i>Shelby County only</i>	9	2-7 22.2%	\$562,083	\$281,041	\$62,453
<i>State Excluding Shelby & Davidson</i>	22	1-21 4.5%	\$121,150	\$121,150	\$5,506

Note: The largest medical result, Case No. 61 - \$16,400,000, represented 86.8% of the aggregate medical negligence verdict awards. Removing that verdict from the totals, the adjusted totals and averages are:

\$2,483,233	\$620,808	\$55,182
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2005-2006 Combined Statewide Summary

A look at the statewide totals from both 2005 and 2006

<u>Statewide totals</u>	<u>Medical Trials</u>	<u>Win-Loss %</u>	<u>Aggregate Verdicts</u>	<u>Plaintiff's Average</u>	<u>Average</u>
<i>Statewide totals</i>	76	12-64 15.7%	\$38,183,691	\$3,181,974	\$502,416
<i>Davidson County only</i>	17	2-15 11.7%	\$18,200,000	\$9,100,000	\$1,213,333
<i>Shelby County only</i>	15	2-13 13.3%	\$562,083	\$281,041	\$37,472
<i>State Excluding Shelby & Davidson</i>	44	8-36 18.1%	\$19,421,608	\$2,427,701	\$441,400

Note: The largest medical result, a urology case from 2005, Case No. 61 - \$16,400,000, represented 42.9% of the aggregate medical negligence verdict awards. Removing that verdict from the totals, the adjusted totals and averages are:

\$21,783,691	\$1,980,335	\$290,449
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It is interesting then, excluding the one aberrant verdict result in terms of the sample, that the average medical verdict over a total of 75 trials turns out to be \$290,449, which is \$40,000 more than the mythical excessive \$250,000 number that is frequently parroted.

The Plaintiff's Verdicts of 2005 and 2006

A case by case summary of the plaintiff verdicts

2006 Results

Orr v. Razzak

Case No: 708

County: Sevier

Verdict: \$8,500,000

Trial Date: 2-15-06

Plaintiff: Jeffrey Rosenblum, Memphis and Bradley Rhorer, Baton Rouge

Defense: Robert Watson, Jr. and Jon Roach, Knoxville

Plaintiff went to the ER in February of 2000 with symptoms of an apparent seizure – his internist missed signs of a treatable heart tumor – a year later almost to the day, the man sustained a devastating stroke related to the untreated tumor, blaming the original diagnosis error in 2000.

Barkes v. River Park Hospital

Case No: 654

County: Warren

Verdict: \$7,206,907

Trial Date: 1-26-06

Plaintiff: David Randolph Smith and Edmund J. Schmidt, III, Nashville

Defense: Bryan Essary, Nashville

Plaintiff, a National guard sergeant, presented to the ER with signs of a heart attack including radiating pain in his arm and wrist – triaged by a paramedic and seen only by a nurse, he was diagnosed with a wrist sprain – hours later he collapsed and died at home of a heart attack.

Woodard v. Memorial North Park Hospital

Case No: 519

County: Hamilton

Verdict: \$2,700,000 (assessed 7% to the defendant)

Trial Date: 10-20-05

Plaintiff: James Neal, Chattanooga

Defense: Randy Wilson, Chattanooga

Presenting to the ER with radiating pain and an inability to control his bowel function, plaintiff was turned away by two ER doctors and the hospital nurses who explained he had no neurological injury – in fact he was suffering from an undiagnosed cauda equina disc injury that went untreated over the weekend – besides the error at the ER (the subject of this lawsuit), the neurologist who saw plaintiff several days later performed a repair surgery at the *wrong* level.

Salmon v. Caruthers

Case No: 586

County: Tipton

Verdict: \$500,000

Trial Date: 4-6-06

Plaintiff: John Sheahan, Jr., Memphis

Defense: Michael Robb, Memphis

During a hysterectomy, plaintiff's Ob-Gyn transected the her ureter and colon – it took eight surgeries to repair the damage.

Robinson v. Baptist Memorial

Case No: 587

County: Lauderdale

Verdict: \$350,000

Trial Date: 3-1-06

Plaintiff: Charles Agee, Jr., Dyersburg

Defense: James Kirby, Memphis

Plaintiff blamed the development of foot ulcers during a hospital stay on negligent nursing care.

Larson v. Walgreens

Case No: 673

County: Winchester

Verdict: \$36,051

Trial Date: 12-15-05

Plaintiff: Stanley Rogers and Christina Duncan, Manchester

Defense: Marc Dedman and David Sanders, Nashville

While plaintiff's prescription for a hypothyroid medicine was for a .25 dose, it was filled at the pharmacy as .025 – the imbalance in plaintiff's system led to a sudden weight gain that will require a bariatric surgery.

Lofton v. Baptist Memorial Hospital

Case No: 588

County: Obion

Verdict: \$7,500

Trial Date: 6-27-06

Plaintiff: James Bradberry, Dresden

Defense: James Kirby, Memphis

An erroneous lab report resulted in unnecessary abdominal surgery – a jury in Union City valued that unnecessary surgery at \$7,500.

2005 Results

Palanki v. Vanderbilt

Case No: 61
County: Davidson
Verdict: \$16,400,000
Trial Date: 5-18-05
Plaintiff: Todd A. Rose, Paris, Les Jones, Memphis
and Rosella Shackelford, Clarksville
Defense: Steven Anderson, Nashville

A pediatric urologist botched an infant's scrotal surgery, removing almost all of the boy's bladder -- fault having been conceded, a Nashville jury teed off with a \$16 million-dollar plus verdict.

Wilson v. Weaver

Case No: 51
County: Davidson
Verdict: \$1,800,000
Trial Date: 4-2-04
Plaintiff: Daniel Clayton, Nashville
Defense: Edward Hadley, Nashville

A radiologist was criticized for misreading a CT scan and missing a cancer lump in plaintiff's neck - a year later when the cancer was discovered, it had already metastasized extensively.

Jackson v. Kamin

Case No: 134
County: Shelby
Verdict: \$462,083
Trial Date: 8-11-04
Plaintiff: Jerry Stokes, Al Thomas and Regina Guy,
Memphis
Defense: Michael McLaren and John Ryland,
Memphis

An elderly hospital patient developed burns in her legs secondary to a potassium chloride IV.

Cothran v. Bolton

Case No: 262
County: Tipton
Verdict: \$121,150
Trial Date: 5-6-04
Plaintiff: Wilson Wages, Millington
Defense: Robert Hale, Memphis

Following a laparoscopic gall bladder surgery, plaintiff suffered complications secondary to a bile leak.

Burnside v. Hamilton

Case No: 126
County: Shelby
Verdict: \$100,000
Trial Date: 6-10-04
Plaintiff: Patricia Odell and Linda Garner, Memphis
Defense: Michael McLaren and Vickie Jones,
Memphis

Chronic bleeding followed a minor ophthalmological surgery, plaintiff not criticizing the surgical technique, but the failure to diagnose and treat the bleeding.

Synopsis of the 2005-2006 Medical Negligence Verdicts

An at-a-glance look at medical verdicts, arranged alphabetically by medicine type. 2006 results in bold.

<u>Genre</u>	<u>County-Case No.</u>	<u>Verdict</u>	<u>Injury</u>
<i>Anesthesia-655</i>	Coffee	Defense	Failure to monitor anesthesia during a colonoscopy (Death)
<i>Battery</i>	Davidson-60	Defense	Testicle removed without consent
<i>Battery</i>	Knox-549	Defense	Permission for one procedure but not another
<i>Battery</i>	Shelby-497	Defense	Unauthorized surgery
<i>Cardiology</i>	Knox-206	Defense	Cardiac complications
<i>Chiropractic</i>	Montgomery-315	Defense	Knee
<i>Dental</i>	Knox-210	Directed	Dental complications
<i>Emergency</i>	Knox-205	Defense	Death (Spider bite)
<i>Emergency</i>	Rutherford-316	Defense	Undiagnosed rib fractures
<i>Emergency</i>	Rutherford-317	Defense	Death (Missed heart attack)
<i>Emergency</i>	Gibson-263	Defense	Death (Missed sepsis)
<i>Emergency</i>	Davidson-448	Defense	Undiagnosed placental abruption after arrival at the ER (Death)
<i>Emergency</i>	Cocke-675	Defense	Error in treating cardiac patient (Death)
<i>Emergency</i>	Sumner-616	Defense	Failure to treat infection (Death)
<i>ENT</i>	Hamilton-168	Defense	Brain injury
<i>ENT</i>	Davidson-62	Defense	Cancer
<i>Family</i>	Shelby-134	\$462,083	Potassium chloride burn from IV
<i>Foreign Object</i>	Shelby-130	Defense	Gauze sponge left behind
<i>Foreign Object</i>	Davidson-52	Defense	Foreign object forgotten
<i>Foreign Object</i>	Sumner-318	Defense	Surgical clamp left behind
<i>Hospital</i>	Shelby-128	Defense	Death (Strangled in Posey vest)
<i>Hospital</i>	Davidson-55	Defense	Brain injury (Not monitored)
<i>Hospital</i>	Davidson-64	Defense	Hip (Not placed in Posey vest as ordered)
<i>Hospital</i>	Sumner-323	Defense	Fall (Obese patient not supported)
<i>Hospital</i>	Lauderdale-587	\$350,000	Foot ulcers related to nursing care
<i>Hospital</i>	Hamilton-519	\$2,700,000	Man with spine injury turned away
<i>Hospital</i>	Warren-654	\$7,206,907	Failure to triage cardiac patient (Death)
<i>Hospital</i>	Shelby-494	Defense	Hypoxic birth injury
<i>Hospital</i>	Greene-677	Defense	Elderly patient aspirated (Death)
<i>Internist</i>	Sevier-708	\$8,500,000	Signs of a stroke missed
<i>Internist</i>	Montgomery-614	Defense	Excessive use of narcotic medications
<i>Neurologist</i>	Greenville-674	Defense	Wrong Ray Cages used in fusion surgery
<i>Nursing Home</i>	Monroe-409	Defense	Death (Improper nutrition)
<i>Nursing Home</i>	DeKalb-617	Defense	Head injury sustained by nursing home resident
<i>Nursing Home</i>	Giles-653	Defense	Nursing home resident's death linked to high potassium level
<i>Ob-Gyn</i>	Hamilton-169	Defense	Death (Stillborn delivery)
<i>Ob-Gyn</i>	Knox-207	Defense	Brain injury (Uterine rupture)
<i>Ob-Gyn</i>	Shelby-129	Defense	Infection (Hysterectomy)
<i>Ob-Gyn</i>	Memphis-131	Defense	Bowel perforated (Hysterectomy)
<i>Ob-Gyn</i>	Memphis-133	Defense	Brain injury (C-Section)
<i>Ob-Gyn</i>	Sumner-319	Defense	Femoral Neuropathy
<i>Ob-Gyn</i>	Tipton-586	\$500,000	Ureter transected in hysterectomy
<i>Ob-Gyn</i>	Hamilton-520	Defense	Premature delivery linked to Ob-Gyn
<i>Ob-Gyn</i>	Shelby-493	Defense	Error by perinatologist in failing to identify a placental abruption (Death)
<i>Ob-Gyn</i>	Wilson-615	Defense	Shoulder dystocia birth injury
<i>Ob-Gyn</i>	Bedford-656	Defense	Hysterectomy error

Synopsis of the Medical Verdicts – 2005 to 2006, continued

Oncology	Knox-550	Defense	Complications of chemotherapy
<i>Ophthalmology</i>	Shelby-126	\$100,000	Bleeding
<i>Orthopedics</i>	Shelby-127	Defense	Carpal tunnel release
<i>Orthopedics</i>	Davidson-59	Defense	Spinal surgery error
<i>Orthopedics</i>	Davidson-53	Defense	Brain injury secondary to laminectomy
<i>Orthopedics</i>	Wilson-320	Defense	Death (Failure to order an x-ray)
<i>Orthopedics</i>	Madison-261	Defense	Death (Blood clot following surgery)
Pain Management	Shelby-496	Defense	Paralysis related to pain block
Pathology	Obion-588	\$7,500	Misread lab report led to surgery
Pathology	Unicoi-676	Defense	Misread report identified a cancer that wasn't there
<i>Pediatrics</i>	Shelby-132	Defense	Hearing loss in an infant
Pharmacy	Winchester-673	\$36,051	Pharmacy error
<i>Plastic Surgery</i>	Davidson-52	Defense	Foreign object forgotten
<i>Plastic Surgery</i>	Davidson-50	Defense	Foreign object forgotten
<i>Podiatry</i>	Rutherford-322	Defense	Cosmetic burn
<i>Psychiatry</i>	Davidson-56	Defense	Death (Suicide)
<i>Radiology</i>	Davidson-51	\$1,800,000	Death (Cancer)
<i>Radiology</i>	Knox-208	Defense	Cancer mistakenly diagnosed
<i>Surgery</i>	Tipton-262	\$121,150	Gallbladder surgery complications
<i>Surgery</i>	Knox-209	Defense	Colon perforation
<i>Surgery</i>	Davidson-58	Defense	Bariatric surgery
<i>Surgery</i>	Claiborne-369	Defense	Spinal accessory nerve severed
<i>Surgery</i>	Sumner-318	Defense	Surgical clamp left behind
<i>Surgery</i>	Montgomery-321	Defense	Complications from hernia surgery
<i>Surgery</i>	Davidson-54	Defense	Kidney lost (Ureter transected)
Surgery	Shelby-492	Defense	Gastric bypass complication
Surgery	Shelby-495	Defense	Nerve injury during hernia repair
Surgery	Davidson-449	Defense	Retrial of Case No. 54 from above
Surgery	Greeneville-678	Defense	Complications followed surgery to remove a benign esophageal mass
<i>Transplant</i>	Davidson-63	Defense	Nerve damage
<i>Urology</i>	Davidson-61	\$16,400,000	Bladder
<i>Urology</i>	Davidson-57	Defense	Death (Cancer)
<i>Urology</i>	Davidson-60	Defense	Testicle removed without consent
<i>(Battery)</i>			

Verdicts by Case Type 2005-2006

A summary of medical verdict results sorted by type of medicine.

<u>Case Type</u>	<u>No. of Cases</u>	<u>Won-Loss</u>	<u>Aggregate Awards</u>	<u>Plaintiff's Average</u>	<u>Average</u>
Anesthesia	1	0-1			
Battery	3	0-3			
Cardiac	1	0-1			
Chiropractic	1	0-1			
Emergency	7	0-7			
ENT	2	0-2			
Family	1	1-0	\$462,083	\$462,083	\$462,083
Foreign Object	3	0-3			
Hospital	9	3-6	\$10,256,907	\$3,418,969	\$932,446
Nursing Home	3	0-3			
Ob-Gyn	11	1-10	\$500,000	\$500,000	\$45,454
Ophthalmology	1	1-0	\$100,000	\$100,000	\$100,000
Orthopedics	5	0-5			
Pain Management	1	0-1			
Pathology	2	0-2			
Pediatrics	1	0-1			
Pharmacy	1	0-1			
Plastic Surgery	2	0-2			
Podiatry	1	0-1			
Psychiatry	1	0-1			
Radiology	2	1-1	\$1,800,000	\$1,800,000	\$900,000
Surgery	11	1-10	\$121,150	\$121,150	\$17,307
Transplant	1	0-1			
Urology	3	1-2	\$16,400,000	\$16,400,000	\$5,466,666

Medical Negligence Verdict Ranges - 2005-2006

(The sixty-four defense verdicts not included)

Aggregate Awards

\$38,183,691

Average Plaintiff's Verdict

\$3,181,974

Average Verdict

\$502,416

The Median Verdict

\$481,041

<u>Rank</u>	<u>Award</u>	<u>Case No.</u>
The Plaintiff Verdicts (2006 in Bold)		
(1)	\$16,400,000	61
(2)	\$8,500,000	708
(3)	\$7,206,907	654
(4)	\$2,700,000	519
(5)	\$1,800,000	51
(6)	\$500,000	586
(7)	\$462,083	134
(8)	\$350,000	587
(9)	\$121,150	262
(10)	\$100,000	126
(11)	\$36,051	673
(12)	\$7,500	588

The Medical Negligence Attorneys

A summary of the lawyers who tried more two or more reported medical cases in 2005 and 2006

<u>Plaintiffs</u>	<u>Cases/Win-Loss</u>		<u>Case Numbers</u>	<u>Aggregate Awards</u>
Daniel Clayton	2	1-1	51,56	\$1,800,000
Patricia Odell	2	1-1	128,126	\$100,000
Linda Garner	2	1-1	128,126	\$100,000
Wilson Wages	2	1-1	262, 492	\$121,150
John Sheahan	2	1-1	263, 586	\$500,000
Edmund Schmidt	2	1-1	615,654	\$7,206,907
Al Thomas	4	1-3	132, 134, 495,496	\$462,083
Randall Kinnard	4	0-4	52,320,614,616	
Joe Bednarz, Sr.	2	0-2	55,59	
William Raiford, III,	2	0-2	131,133	
Arthur Knight, III	2	0-2	205,208	
Gary Brewer	2	0-2	550,675	
Leslie Muse	2	0-2	550,675	
Lisa Rowan	2	0-2	52, 614	
Daniel Warlick	2	0-2	54, 449	
Steve North	2	0-2	54, 449	
Linda Welch	2	0-2	206, 677	
Timothy Holton	2	0-2	133, 494	

<u>Defendants</u>	<u>Cases/Win-Loss</u>		<u>Case Numbers</u>	<u>Aggregate Awards</u>
Dixie Cooper	6	6-0	62,64,133,50,56,58	Zero
Robert Trentham	4	4-0	53,318, 319, 653	Zero
Steven Anderson	4	3-1	63,52,61,614	\$16,400,000
Phillip North	3	3-0	317,319,56	Zero
Edward White, II	3	3-0	206,205,207	Zero
Brian Cummings	3	3-0	55,64,58	Zero
Taylor Mayes	3	3-0	53,318, 653	Zero
Thomas Wiseman	3	3-0	54, 449,616	Zero
James Kirby	3	1-2	491, 587,588	\$357,500
Stephen Daves	2	2-0	207,369	Zero
Lisa York	2	2-0	56,50	Zero
Chase Kibler	2	2-0	206,205	Zero
John Floyd	2	2-0	315,233	Zero
Michael McInteer	2	2-0	315,233	Zero
Marty Phillips	2	2-0	261,263	Zero
C.J. Gideon, Jr.	2	2-0	55,133	Zero
Edward Hadley	2	2-0	51,317	Zero
Bennett Harrison, Jr.	2	2-0	57, 615	Zero
Brian Holmes	2	2-0	57, 615	Zero
Harold McLeary	2	2-0	131, 493	Zero
Jerry Mitchell	2	2-0	130, 492	Zero
Gary Spangler	2	2-0	208,550	Zero
Carrie O'Rear	2	2-0	208,550	Zero
Bryan Essary	2	1-1	323, 654	\$7,206,207
Michael Robb	2	1-1	127, 586	\$500,000
Michael McLaren	2	0-2	134,126	\$562,083

Note: The win-loss percentage is reversed for defendants. While throughout this volume, the win-loss percentage contemplates a plaintiff's victory, in the chart for defendants, a defense verdict is counted as a win.