

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

July 2013

Published in Louisville, Kentucky Since 1997

17 K.T.C.R. 7

Comprehensive Statewide Jury Verdict Coverage

Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts including circuit, division, presiding judge, parties, case number, attorneys and results.

Auto Negligence - The plaintiff, an operating nurse, linked pain and the limitation of her nursing career to an L-2 compression fracture that was sustained in a right-of-way collision

McKeehan v. Evans, 12-44

Plaintiff: James T. Gilbert, *Coy Gilbert & Gilbert*, Richmond

Defense: R. Craig Reinhardt, *Reinhardt & Associates*, Lexington

Verdict: \$490,662 for plaintiff

Court: **Madison**, J. Logue, 6-26-13

Frances McKeehan, then age 55 and an operating room nurse, was headed to church on the morning of 9-20-10. She was a passenger with her husband in a Jeep Grand Cherokee as he drove on U.S. 25 near Berea. A moment later, Edwin Evans of Evans Tire Service, pulled from his business.

Evans simply didn't see the McKeehan vehicle coming. He pulled directly into its path. A significant collision resulted. Evans conceded fault.

McKeehan was complaining of back pain at the scene and was immediately taken to the local ER. She was treated for an L-2 compression fracture, a bruised knee and other soft-tissue symptoms.

Her injuries were confirmed by her family doctor and her orthopedist (Dr. Mark Secor, Richmond), both of whom testified live at trial. There was proof that

***Order the 2012 KTCR Year in Review ***

On sale in July 2013 for \$225.00 – Save \$50.00

The KTCR 2012 Year in Review

Fifteenth Edition (The first was 1998)

Order the 2012 KTCR Year in Review for \$225.00 in July and save \$50.00 off the regular price.

(\$238.50 including sales tax for Ky. Residents)

See the order form on the backpage or call us toll-free at 1-866-228-2447 to pay by MC/Visa/Amex

while McKeehan is still working as a nurse, she will likely leave the workforce sooner than expected.

McKeehan's vocational team, Jacquelyn Velez and Ronald Missun, both of Vocational Economics, valued her impairment at \$143,224. Lost wages totaled \$22,020. McKeehan's incurred medicals were \$17,646. The plaintiff also sought both past and future suffering in separate categories.

In this lawsuit McKeehan sought damages from Evans. Besides conceding fault for the wreck, Evans also testified in his deposition that he wanted McKeehan to be fully compensated. Full compensation apparently represented \$75,000, that being his last take-it-or-leave-it offer at mediation.

In defending the merits of the case and diminishing damages, Evans employed an IME, Dr. Gary Bray, Orthopedics, Lexington. Bray linked McKeehan's ongoing symptoms not to the L-2 fracture, but instead to

other degenerative conditions. The doctor also thought McKeehan would benefit most from an exercise program.

The jury's verdict was for McKeehan and she took \$15,418 of her medicals. Her lost wages were \$22,020, the jury valuing her impairment at \$143,224 as claimed. Past suffering was \$22,832, the jury adding future suffering at \$287,168. The verdict totaled \$490,662. A consistent judgment has been presented to the court, but at the time of this report, it had not yet been entered.

Kentucky Trial Court Review
July 2013
Table of Contents

Verdicts

Jefferson County

Auto Negligence - A Louisville jury awarded medicals but nothing for pain and suffering – rather than grant a new trial, the trial judge ordered additur - \$6,421 p. 4

FELA - While making repairs on a locomotive, an electrician suffered injuries when a welded washer failed and a heavy steel cover struck him - \$870,000 p. 7

Madison County

Auto Negligence - The plaintiff (an OR nurse) suffered an L-2 compression fracture in a right-of-way collision - \$490,662 p. 1

Livingston County

Truck Negligence - A teen driver was killed when he encroached a trucker's lane – the teen's estate and his passenger blamed the trucker for failing to evade the collision - Defense verdict p. 3

Fayette County

Medical Negligence - A hematology error in treating a blood coagulation disorder was purportedly linked to the plaintiff's death - \$117,000 p. 3

Premises Liability - An elderly restaurant patron tripped on a step leading to a booth and sustained a disc injury - Defense p. 10

Federal Court - London

Medical Negligence - Following an adverse medical negligence verdict based on the agency of one of its doctors, the hospital that was hit with the verdict sued the doctor seeking indemnity - Defense verdict p. 6

Caldwell County

UIM - The plaintiff complained of a disabling L4-5 disc injury that followed a head-on collision - \$242,975 p. 7

Arbitration

Nursing Home Negligence - In a binding arbitration opinion, an arbiter concluded Kindred nursing home staff were grossly negligent in botching a patient's transfer and depriving the patient of an airway for 15 minutes leading to death - \$463,570 p. 8

Hardin County

Auto Negligence - The verdict was for the defendant in a case involving a disputed head-on collision - Defense verdict p. 9

Pike County

Auto Negligence - The plaintiff suffered a cervical disc fracture in a right of way collision – a Pikeville jury valued his pain and suffering at \$20,000 - \$30,000 p. 9

Hart County

Roadway Negligence - While traveling on a rural road beyond county maintenance of the road, the plaintiff suffered a disc injury when he crashed into a gate that was placed on the road by nearby homeowners - \$15,000 p. 9

Warren County

Cardiac Stress Test Negligence - The plaintiff fell off a treadmill during a stress test and suffered a shoulder injury - Defense p. 10