

# Alabama Law Weekly

A weekly summary of Alabama law developments

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Vol. 17, No. 17  
April 25, 2008

## Alabama's million dollar cases in 2007

Last week, we highlighted the statistics reported in the *Alabama Jury Verdict Reporter 2007 Year in Review* edition and focused on the various kinds of cases filed last year. This week, we are examining those verdicts that yielded plaintiff's awards in excess of one million dollars handed down in 2007. Thirteen such verdicts were reported in the *Alabama Jury Verdict Reporter*; this number is down from the 15 such verdicts that were handed down in 2006. Of the verdicts in excess of one million dollars that were rendered in 2007, three were the result of automobile negligence cases and three were the result of fraud actions. The remainder were spread evenly over nursing home, products liability, workplace negligence, medical negligence, contracts, road construction, and tire service cases. The following is a more detailed account of Alabama's largest 2007 verdicts:

**#1.** The largest verdict rendered in this state last year involved a medical negligence case arising out of Jefferson County, Alabama. Vaughn Hollon was visiting relatives in Birmingham in 2003 when he was admitted into Brookwood Medical Center for psychiatric problems. Hollon was suffering from depression and suicidal tendencies. Because Brookwood's psychiatric unit was full, Hollon was placed in a dual diagnosis unit. After 38 hours, he was transferred to another ward. Hollon was permitted access to a patio in order to smoke. He scaled a fence and jumped several floors to a parking deck. A nurse tried to stop him but he broke free and jumped a second time some 80 feet from the parking deck to the ground below. He sustained fatal injuries. Hollon's estate sued. Brookwood maintained that Hollon's death was not foreseeable given the fact that he had no prior psychiatric admissions and he was functioning well after his first 38 hours. A jury awarded Hollon's estate \$12,000,000. Glenda Cochran in Birmingham represented the plaintiff. The case is on appeal.

**#2.** A \$10,250,000 verdict was handed down in Mobile County that was included in the 2007 largest verdicts. In that case, the plaintiff was working at a Target distribution center on a portable scaffold. Another employee drove a forklift into the scaffold and the plaintiff fell 20 feet to a concrete floor below. He sustained significant injuries, including spinal fractures and a fractured pelvis. His wife filed a loss of consortium claim. The plaintiff sought both compensatory and punitive damages, noting that the forklift driver had a history of unsafe conduct and that the area where the accident occurred was improperly maintained. The plaintiff received \$5 million in compensatory and \$5 million in puni-

tive damages. His wife received \$250,000. The case was dismissed with prejudice after the jury verdict. R. Tucker Yance and Mike Worel from Mobile represented the plaintiffs.

**#3.** In April 2007, a Bullock County jury awarded \$10,000,000 to the estate of a passenger who was killed in an automobile accident. The defendant was APAC Southeast, Inc., a contractor who had been hired by the State of Alabama to repave the road where the accident occurred. The plaintiff hired an accident reconstructionist who opined that the defendant had left a "dip" in the road which caused the driver of the vehicle to lose control. Moreover, a soft shoulder prevented the driver from regaining control of the vehicle after the collision. The case appears to have been settled on the same day that the jury returned its verdict. Leah Taylor from Birmingham and Lynn Jinks from Union Springs represented the plaintiff.

**#4.** David Marsh and Michael Beard from Birmingham represented the plaintiff in a fraud action which resulted in a \$6,500,000 plaintiff's verdict in St. Clair County. The plaintiff was employed by an engineering firm in 1967. As part of his compensation, the company purchased life insurance

*(continued on page 2)*

## Highlights

- Supreme Court grants mandamus relief and holds that plaintiff could not substitute her insurance company for a fictitiously named party seven years after she was involved in an automobile accident; plaintiff should have reasonably known that her insurer was a defendant prior to the expiration of the statute of limitations, page 3.
- Supreme Court reverses trial court and holds that defendant did not waive its right to arbitration merely because it failed to initiate arbitration proceedings after court granted its motion to compel arbitration; responsibility for initiating arbitration proceedings is placed on plaintiff, page 4.
- Court of Civil Appeals holds that employee's injury to his foot affected his gait and could have caused back pain; Court affirms award of total disability, page 5.
- Court of Civil Appeals affirms trial court's judgment holding that illegitimate son of decedent did not have standing to establish paternity even though DNA testing established that the decedent was his biological father, page 5.