ALABAMA
Civil Trial Reporter

Volume XXXVI, NO. 8 • August 2025

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Civil Trial Reporter

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Case Summaries

BIBB COUNTY

(1) RENITHIA WHITE vs. JENNIFER STANLEY (Circuit Court of Bibb County, Alabama)

County/Docket #/Judge: Bibb / 07-CV-2024-900048 / Marvin W. Wiggins

Plaintiff(s) Attorney(s): Samuel E. Wiggins, III, of Wiggins Law Firm, Birmingham, AL

Defendant(s) Attorney(s): Megan K. McCarthy of Ball, Ball, et al., Montgomery, AL

Age/Sex/Occupation Of Plaintiff: n/a / F / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/Rear-End Collision***. On June 17, 2024, plaintiff Renithia White filed a complaint against defendant Jennifer Stanley. She alleged that on April 28, 2023, she was driving on AL-5 in Woodstock when defendant rear-ended her vehicle. As a result, plaintiff suffered injuries to her head, back, and neck and other personal injuries. She brought claims for negligence and/or wantonness.

Defendant denied the allegations.

Only the negligence claim went to the jury.

Nature Of Injury: Head, neck, and back injuries and other personal injuries; pain and suffering.

Expert Witnesses:

Plaintiff's:
Michael D. Clark, Jr., Orthopedic Surgery, Shreveport, LA

Defendant's:
n/a

Verdict: ***$20,000 for Plaintiff on April 30, 2025***.

Judgment: $20,000 for Plaintiff on May 5, 2025.

Editor's Note: On June 24, 2025, the court, pursuant to an agreement between the parties, taxed costs of $3,728.18 against defendant. ■

CALHOUN COUNTY

(2) TIM PARKER vs. SOUTHERN STAR AUTOWORKERS LLC (Circuit Court of Calhoun County, Alabama)

County/Docket #/Judge: Calhoun / 11-CV-2024-900534 / Shannon C. Page

Plaintiff(s) Attorney(s): Donald Rhea of The Rhea Firm, Gadsden, AL

Defendant(s) Attorney(s): William A. Austill of Austill Lewis, et al., Birmingham, AL

Age/Sex/Occupation Of Plaintiff: n/a / M / Auto Mechanic

Cause Of Injury: ***Worker's Compensation/Injury by Accident/Auto Mechanic Alleges Shoulder Injury From Trying to Catch Falling Auto Part***. On Sept. 12, 2024, plaintiff Tim Parker filed a complaint for worker's compensation benefits against defendant Southern Star Autoworks LLC. Plaintiff, an auto mechanic, alleged that on May 22, 2023, he was inspecting and repairing a Mercedes 560SL, which was on a lift. He was seated on a rolling stool underneath the vehicle. As plaintiff was repairing the vehicle's steering gearbox, it began to fall. Plaintiff jerked his left arm upward to catch it, then used both hands to forcibly put it back in a secure position. He felt a popping sensation in his left shoulder and had significant pain and discomfort in his right shoulder. Plaintiff continued to work, but in September 2023, he went to CARES Occupational Medicine in Anniston and was given injections. He began gradually losing range of motion and strength in both upper extremities, particularly his right arm and shoulder. Dr. Grady Maddox told him in November 2023 that he would likely need surgery on the right shoulder. In February 2024, plaintiff chose Dr. Robert Wolf from a "panel of four." On April 15, 2024, Dr. Wolf told him that

his right shoulder would need to be replaced. He ordered additional images of plaintiff's left shoulder, which showed a full thickness tear of the supraspinatus tendon, near full thickness tears of the infraspinatus and subscapularis tendons, and partial disruption in the long head biceps tendon with partial medial subluxation, indicating a rupture of the rotator cuff. Dr. Wolf referred plaintiff to a specialist group at the University of Alabama at Birmingham. On April 22, 2024, he advised plaintiff to see an orthopedic surgeon as soon as possible. Dr. Wolf also prescribed physical therapy, which plaintiff completed. Defendant, however, denied plaintiff's claim for worker's compensation benefits. As a result, plaintiff had not had the recommended surgeries or further treatment.

Defendant contended that plaintiff's right shoulder injury was not caused or aggravated by the alleged workplace accident that plaintiff's preexisting conditions in his left shoulder were at most temporarily exacerbated by the alleged workplace accident. It also contended that plaintiff injured both shoulders in October 2023 in a non-work-related incident in which she was trying to help two women change their tire in a parking lot.

The parties agreed to a settlement.

Nature Of Injury: Shoulder injuries.

Expert Witnesses: n/a

Settlement: ***$80,000 on June 9, 2025***.

Editor's Note: The settlement closed future medical benefits. ■

CULLMAN COUNTY

(3) N.W., a Minor Who Sues By and Through His Mother and Next Friend, Brittany Harp vs. CAYDENCE SANSING, STEPHEN SANSING, and SHERENDA SANSING (Circuit Court of Cullman County, Alabama)

County/Docket #/Judge: Cullman / 25-CV-2025-900134 / Emily N. Johnston

Plaintiff(s) Attorney(s): Jennifer E. Lackey of The Lackey Law Firm, Scottsboro, AL

Defendant(s) Attorney(s): Robert B. McNeill and Chris Mauck of Gaines Gault, et al., Birmingham, AL

Age/Sex/Occupation Of Plaintiff: Minor / M / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/Rear-End Collision Causes Vehicle to Leave Vehicle and Overturn***. On April 4, 2025, plaintiff N.W., through his mother, Brittany Harp, filed a *pro ami* complaint against defendants Caydence Sansing, Stephen Sansing, and Sherenda Sansing. Plaintiff alleged that on Nov. 26, 2023, he was driving Harp's 2017 Hyundai Elantra on County Road 1435 in Cullman County. As plaintiff slowed to turn onto County Road 1301, Caydence Sansing, driving a 2014 Kia Rio owned by the other defendants, rear-ended plaintiff's vehicle, which caused plaintiff's vehicle to leave the road and overturn. As a result, plaintiff was injured. He contended that Caydence Sansing negligently and wantonly caused the collision that the other defendants negligently entrusted the vehicle to her.

In its order approving the parties' settlement, the court stated that following the collision, plaintiff was diagnosed with contusion to the lower back, neck strain, and lower left leg contusion. He later received physical therapy. After he completed physical therapy, he still complained of low back pain, but radiographic studies were normal.

Nature Of Injury: Contusions to the lower back and lower left leg, neck strain, and back pain; pain and suffering.

Expert Witnesses: n/a

Settlement: ***$25,000 on June 9, 2025*** *($9,004.60 – attorney fees and expenses; $2,530.53 – Medicaid subrogation lien; $13,464.87 – to be held by clerk of court in interest-bearing account until plaintiff reached his majority)*.

Editor's Note: The court awarded the guardian ad litem, Gregory Battles, a fee of $1,000. ■

(4) J.A., a Minor, By and Through His Parents and Next Friends, Jonathan Adams, Sr., and Brittany Adams and P.A., a Minor, By and Through Her Parents and Next Friends, Jonathan Adams, Sr. and Brittany Adams vs. AMANDA NICOLE EDWARDS (Circuit Court of DeKalb County, Alabama)

County/Docket #/Judge: DeKalb / 28-CV-2025-900011 / Jeremy S. Taylor

Plaintiff(s) Attorney(s): John Culpepper Sawyer, III, of Shunnarah Injury Lawyers, PC, Birmingham, AL

Defendant(s) Attorney(s): Nicholas Bottoms of Gaines Gault, et al., Birmingham, AL

Age/Sex/Occupation Of Plaintiff: J.A.: 5 / M / n/a; P.A.: 15 mos. / F / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/ Collision at Intersection***. On Jan. 21, 2025, plaintiffs J.A. and P.A., through their parents, Jonathan Adams, Sr., and Brittany Adams, filed a *pro ami* complaint against defendant Amanda Nicole Edwards. They alleged that on July 2, 2023, at the intersection of AL-75 and George Wallace Drive in Rainsville, they were injured when defendant negligently caused her vehicle to collide with the one in which plaintiffs were riding.

In its order approving the settlement, the court stated that following the collision, J.A. was taken by ambulance to DeKalb Regional Hospital, where he was treated for a small laceration on the outside of his right eye. He saw his pediatrician for bruising around the eye on July 6, 2023. On July 25, 2023, he went to an eye care center and was given eye drops after complaining of pain. He had no further treatment related to the collision. P.A. was also transported to the hospital. She was diagnosed with an abrasion of the neck but was acting normally. On July 6, 2023, she had a follow-up visit with her pediatrician; after that, she had no further collision-related treatment.

Nature Of Injury: Laceration to right eye (J.A.); abrasion of the neck (P.A.); pain and suffering.

Expert Witnesses: n/a

Settlement: ***$14,000 on May 19, 2025*** *($398.85 – Medicaid subrogation lien for J.A.; $2,717.99 – attorneys' fees and expenses for J.A.; $4,383.16 – to be held by clerk of court in interest-bearing account until J.A. reached his majority; $334.29 – Medicaid subrogation lien for P.A.; $2,367.99 – attorneys' fees and expenses for P.A.; $3,797.72 – to be held by clerk of court in interest-bearing account until P.A. reached his majority)*.

Editor's Note: The court awarded Chris Runyan, the guardian ad litem, a fee of $500. ■

ETOWAH COUNTY

(5) ALFA MUTUAL INSURANCE COMPANY as subrogee of Patrick Campbell and PATRICK CAMPBELL vs. JASON REDELL LEE (Circuit Court of Etowah County, Alabama)

County/Docket #/Judge: Etowah / 31-CV-2022-000068 / Cody D. Robinson

Plaintiff(s) Attorney(s): James R. Esdale of Esdale Law Firm, LLC, Birmingham, AL

Defendant(s) Attorney(s): Chad A. Hopper of Buttram Hawkins, et al., Centre, AL

Age/Sex/Occupation Of Plaintiff: n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/ Subrogation Lien***. On Oct. 31, 2017, plaintiff Alfa Mutual Insurance Company, as subrogee of Patrick Campbell, and Patrick Campbell as an individual, filed a complaint in a county district court against defendant Jason Redell Lee. They alleged that on Feb. 19, 2016, defendant negligently caused damage to Campbell's vehicle. Alfa sought to recover $6,379.60, and Campbell sought to recover his $250 deductible.

On July 27, 2022, the case was called for trial, but defendant's counsel stated that defendant would not appear. The district court entered a judgment of $6,629.60 against defendant, plus costs.

Defendant filed an appeal to the circuit court on Aug. 5, 2022, in which he sought a jury trial.

Nature Of Injury: Economic loss.

Expert Witnesses: n/a

Verdict: ***$1,500 for Plaintiffs on June 10, 2025***.

Judgment: $1,500 for Plaintiffs on June 10, 2025. ■

(6) KIMBERLY BROWN, Individually and as Mother and Next Friend of T.B., L.P., and L.A. and JOSHUA CALEB BERKEY, Individually and as Next Friend of K.B. vs. PROGRESSIVE SPECIALTY INSURANCE COMPANY and JOSHUA CALEB BERKEY (Circuit Court of Etowah County, Alabama)

County/Docket #/Judge: Etowah / 31-CV-2024-000055 / Sonny J. Steen

Plaintiff(s) Attorney(s): *Pro Se*

Defendant(s) Attorney(s): Jay S. Tuley and Morgan B. Beckman of Holtsford Gilliland, et al., Montgomery, AL, for Progressive Specialty Insurance Company

Age/Sex/Occupation Of Plaintiff: T.B.: Minor / F / n/a; L.P.: Minor / F / n/a; L.A.: Minor / M / n/a; K.B.: Minor / M / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/ Uninsured/Underinsured Motorist Benefits/Single-Car***

Accident. On June 6, 2024, plaintiff Kimberly Brown, individually and as the mother of minor plaintiffs T.B., L.P., and L.A., and plaintiff Joshua Caleb Berkey, as the father of minor plaintiff K.B., filed a *pro se* complaint against defendant Progressive Specialty Insurance Company; they also named Berkey as a defendant. Plaintiffs alleged that on Aug. 19, 2023, Berkey, with the minor plaintiffs as passengers, was involved in a single-vehicle accident. As a result, the minor plaintiffs were injured, and Brown and Berkey lost their services and incurred medical expenses. Berkey was insured by Progressive.

The parties agreed to settle the minor plaintiffs' claims.

Nature Of Injury: Personal injuries; pain and suffering.

Expert Witnesses: n/a

Settlement: ***$50,500 on June 17, 2025*** *($645.22 – insurance subrogation lien for T.B.; $1,175.20 – medical bills for T.B.; $6,979.58 – to be held by clerk of court in interest-bearing account until T.B. reached her majority; $624.80 – insurance subrogation lien for L.P.; $1,262.20 – medical bills for L.P.; $10,413 – to be held by clerk of court in interest-bearing account until L.P. reached her majority; $112.98 – Medicaid subrogation lien for L.A.; $847.20 – medical bill for L.A.; $3,739.82 – to be held by clerk of court in interest-bearing account until L.A. reached his majority; $227.50 – Medicaid subrogation lien for K.B.; $847.23 – medical bill for K.B.; $23,625.27 – to be held by clerk of court in interest-bearing account until K.B. reached his majority)*.

Editor's Note: Plaintiffs filed a satisfaction of judgment on June 17, 2025. The court awarded the guardian ad litem, Emily Mills, a fee of $4,200. ■

(7) VICKI ECXFORD vs. GENOA HEALTHCARE, LLC (Circuit Court of Etowah County, Alabama)

County/Docket #/Judge: Etowah / 31-CV-2022-900291 / George C. Day, Jr.

Plaintiff(s) Attorney(s): E. Kirkland Back of Rhea, Boyd, et al., Gadsden, AL

Defendant(s) Attorney(s): Donald B. Kirkpatrick, II, and Kip M. Davis of Carr Allison, Birmingham, AL

Age/Sex/Occupation Of Plaintiff: n/a / F / Delivery Driver

Cause Of Injury: ***Worker's Compensation/Injury by Accident/Delivery Driver Rear-Ended in Collision***. On July 27, 2022, plaintiff Vicki Ecxford filed a worker's compensation action against defendant Genoa Healthcare, LLC. She alleged that on Nov. 10, 2021, she had completed her second delivery route of the day and was heading back to defendant's headquarters in Attalla. As plaintiff approached a roundabout outside of Ashville and waited for traffic to pass, she was rear-ended by another vehicle. Plaintiff immediately felt pain in her neck, shoulders, and back. Since the collision, she had seen multiple health care providers. Her pain now radiated into both legs and arms, and she had numbness in her fingers and toes. Plaintiff nearly always used a cane to assist her in walking and had nearly constant headaches. Although plaintiff had been seeing a physician for pain management for many years, the collision aggravated her symptoms. She stated that she had started receiving Social Security disability benefits in 2008, following back surgery, but had worked part-time as a delivery driver for defendant since. On Feb. 18, 2022, she was released to work by Dr. Daniel Kim, but she was unable to drive for long distances and was terminated in June 2022.

The parties agreed to settle plaintiff's claim. In the settlement, they stated that defendant had paid plaintiff about $3,129.52 in temporary total disability benefits and had paid about $89,331.51 in medical bills. Plaintiff's average weekly wage was $273.94.

Nature Of Injury: Neck, shoulder, and back injuries.

Expert Witnesses: n/a

Settlement: ***$121,233 on Jan. 31, 2025*** *($50,000 – to be paid directly to plaintiff; $71,233 – to be used to fund Medicare set-aside account)*.

Editor's Note: On March 7, 2025, the court dismissed the case with prejudice pursuant to the parties' joint motion. ■

JEFFERSON COUNTY

(8) C.B., A Minor, Who Sues By and Through Her Mother and Next Friend, April L. Brown vs. JASHUNDRA DEONTA BROWN (Circuit Court of Jefferson County, Alabama, Birmingham Division)

County/Docket #/Judge: Jefferson / 01-CV-2024-905133 / Pat Ballard

Plaintiff(s) Attorney(s): B. Keith Forstman of Forstman & Cutchen, LLP, Birmingham, AL

Defendant(s) Attorney(s): William Zack Brown of Slaughter & Associates, Birmingham, AL

Age/Sex/Occupation Of Plaintiff: Minor / F / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/ Minor Passenger Injured in Collision***. On Dec. 16, 2024, minor plaintiff C.B., through her mother, April L. Brown, filed a *pro ami* complaint against defendant JaShundra Deonta Brown. Plaintiff alleged that on Jan. 24, 2024, she was a passenger in a vehicle driven by defendant when defendant's negligence caused the vehicle to be involved in a collision on Cherry Avenue in Jefferson County. As a result, plaintiff was injured.

Jennifer Townsend, the guardian ad litem, submitted a report on May 15, 2025. She stated that after the collision, which took place at or near the intersection of Cherry Avenue and Wilburn Lake Road, plaintiff was taken by paramedics to Children's of Alabama. A CT scan of her cervical spine appeared normal, but a facial CT scan showed evidence of fractures of the nasal bones. Dr. Kathlyn Kruger Powell performed a closed reduction of the nasal fracture on Feb. 23, 2024. On March 7, 2024, plaintiff reported that she was doing well except for minor difficulty in breathing through her nose. She was seen for a follow-up at Children's on Feb. 13, 2025. No further treatment was recommended. Plaintiff was on an individualized education program ("IEP"), and the IEP team believed she could benefit from tutoring.

Nature Of Injury: Fractured nose; pain and suffering.

Expert Witnesses: n/a

Settlement: ***$25,000 on May 16, 2025*** *($9,304.71 – attorney fees and expenses; $2,210.38 – Medicaid subrogation interest; $13,484.91 – to be held by clerk of court in a short-term, interest-bearing account for the benefit of plaintiff until further order of the court)***.**

Editor's Note: The court retained jurisdiction over the case to oversee and approve of any expenditures to be made for the benefit of plaintiff before she reached the age of majority. It awarded the guardian ad litem a fee of $1,625. ■

(9) DAGNEY JOHNSON BURT vs. VOLKSWAGEN GROUP OF AMERICA, INC. (United States District Court for the Northern District of Alabama, Southern Division)

County/Docket #/Judge: Jefferson/ 2:24-cv-01693 / R. David Proctor

Plaintiff(s) Attorney(s): Taylor C. Bartlett, W. Lewis Garrison, Jr., and Mark Ekonen of Heninger Garrison, et al., Birmingham, AL

Defendant(s) Attorney(s): Thomas E. Bazemore, III, of Morgan M. Turner of Huie, Fernambucq, et al., Birmingham, AL; Michael B. Gallub and Brian T. Carr of Shook, Hardy, et al., New York, NY

Age/Sex/Occupation Of Plaintiff: n/a / F / n/a

Cause Of Injury: ***Products Liability/Breach of Warranty/Negligence/Unjust Enrichment/Fraud/Deceptive Trade Practices/Customer Claims That Vehicles Contained Defective Oil Separator***. On April 11, 2025, plaintiff Dagney Johnson Burt filed an amended class action complaint against defendant Volkswagen Group of America, Inc. She alleged that Volkswagens with model years 2018 to 2023 that were equipped with a 2.0L four cylinder-petrol engine contained a defective oil separator. The defect caused oil to leak from the upper timing covers, magnets, and oil level sensor and could lead to catastrophic damages such as oil pan and timing cover cracks. Plaintiff herself purchased a new Volkswagen Atlas in November 2022. One of the main reasons she selected the vehicle was the 2.0L petrol engine. After she bought the car, it began to leak oil. On Nov. 6, 2024, she was quoted more than $2,100 to repair and replace the defective oil separator. Defendant denied her request to replace it at no cost to her. She stated that she had to buy oil in between service trips; moreover, the oil leaked onto her driveway and onto the streets of the community where she lived. Her homeowners association had told her that she was responsible for remediating the resulting oil stains. Plaintiff contended that defendant knew or should have known of the defect based on testing, customer complaints, repair data, online complaints, but concealed its knowledge. She brought claims for breach of express warranty, breach of implied warranty, equitable and injunctive relief, negligence, unjust enrichment, fraud and suppression, violation of the New Jersey Consumer Fraud Act ("NJCFA"), violation of the Alabama Deceptive Trade Practices Act ("ADTPA"), and violation of the Virginia Consumer Protection Act ("VCPA")

Defendant filed a motion to dismiss on May 9, 2025. With regard to the express warranty claim, it argued that defendant had not alleged that she presented the oil separator to a Volkswagen dealer for repair within the express warranty period. Plaintiff had exceeded the 50,000-mile warranty limit when she first presented the oil separator for repair. As for the implied warranty claim, defendant argued that plaintiff was not in privity with defendant; furthermore, plaintiff had not established that her vehicle was not unfit for the ordinary purpose of driving. Defendant argued with regard to the negligence claim that it owed no duty to plaintiff, who bought the car through a retailer, and that the economic loss rule barred the claim. Defendant also argued with regard to the oil stains that plaintiff had not

alleged that she had paid anything to clean them or that her own property had sustained a diminution of value. As for the common-law fraud and suppression claim and the statutory fraud claims under the ADTPA, NJCFA, and VCPA, defendant argued that plaintiff failed to identify the oil separator defect. Furthermore, defendant stated, plaintiff failed to establish reliance or causation, pre-sale knowledge of the alleged defect, and a duty to disclose; in addition, the economic loss rule barred the fraud and suppression claim, and plaintiff's election to pursue a common-law fraud claim waived her ADTPA claim. Defendant also argued that the claims for equitable relief should be dismissed because plaintiff had not established the lack of an adequate legal remedy and lacked Article III standing to seek injunctive relief. In addition, defendant contended that plaintiff failed to state claims under NJCFA and VCPA and also lacked Article III standing for those claims, and that plaintiff's "nationwide" claims should be dismissed for lack of Article III standing.

Nature Of Injury: Economic loss; property damage.

Expert Witnesses: n/a

Judgment: For Defendant on June 11, 2025 (dismissal of individual claims with prejudice).

Editor's Note: In its opinion, the court stated that plaintiff failed to state a claim for breach of express warranty because she did not allege that she sought repairs during the warranty period. Although plaintiff argued that the duration of the warranty was unconscionable, the court stated that there was nothing unconscionable about such a warranty; furthermore, under Alabama law, unconscionability was an affirmative defense. As for breach of implied warranty, the court stated that the same durational limit applied to plaintiff's implied warranty claim. Moreover, she had not plausibly pleaded that the vehicle was unmerchantable, as she did not claim that she had had it repaired, that it was inoperable, or that she had stopped driving it. The court stated that the request for equitable or injunctive relief was not an independent claim, but a remedy. As for negligence, the economic loss rule barred recovery of damages for damages to the vehicle. Although the doctrine did not bar the claims for the driveway, the street, and parking places, the negligence claim failed because plaintiff had not alleged that the vehicle was so unsafe as to be defective.

With regard to the fraudulent misrepresentation claim, the court stated that plaintiff had not alleged actionable misrepresentations with the required particularity; even if she had, the economic loss rule barred her claims for economic damages to her vehicle. Plaintiff's suppression claim failed because plaintiff had not adequately alleged that defendant had a duty to disclose the alleged defect. As for the ADTPA claim, the court stated that plaintiff had failed to plead any facts showing an actionable deception. Moreover, allowing her to alternatively plead the ADTPA and other fraud claims would improperly enlarge the substantive right and remedy of the statute. Plaintiff had conceded that the NJCFA and VCPA claims should be dismissed. Finally, plaintiff's unjust enrichment claim was not cognizable, as plaintiff had alleged the existence of an express warranty, the existence of which was not disputed by defendant.

The court stated that dismissal of the individual claims would be with prejudice because plaintiff, who had previously amended her complaint, had not sought leave to amend again and because plaintiff, having been alerted to the deficiencies in her claims through a prior motion to dismiss, had not adequately remedied the deficiencies. The dismissal did not affect any cause of action that members of the putative classes might have against defendant. ■

(10) JOANNA C. CARPENTER and HERSCHEL E. CARPENTER vs. CRAIG'S QUALITY TREE SERVICE, INC. and CRAIG K. SPARKS (Circuit Court of Jefferson County, Alabama, Bessemer Division)

County/Docket #/Judge: Jefferson / 68-CV-2021-900085 / Reginald L. Jeter

Plaintiff(s) Attorney(s): William E. Bright, Jr., Trussville, AL

Defendant(s) Attorney(s): Bobby J. Hornsby of Hornsby & Hornsby, Attorneys at Law, Birmingham, AL

Age/Sex/Occupation Of Plaintiff: Joanna C. Carpenter: n/a / F / n/a; Herschel E. Carpenter: n/a / M / n/a

Cause Of Injury: ***Nuisance/Private Nuisance/Landowners Allege That Business Dumps Trees and Other Materials on Their Land***. On Feb. 15, 2021, plaintiffs Joanna C. Carpenter and Herschel E. Carpenter filed a complaint for nuisance against defendants Craig's Quality Tree Service, Inc., and Craig K. Sparks. They alleged that defendants operated a business adjacent to plaintiffs' property in Pleasant Grove. Since April 1, 2020, defendants had begun dumping trees, logs, cement, and other items on plaintiffs' property as well as on defendants' property. Because of the heavy machinery used by defendants, plaintiffs could not enjoy outside activities of any sort; in addition, defendants' actions interfered with plaintiffs' sleep as well as caused mental and physical injuries to plaintiffs. Plaintiffs further alleged that defendants had destroyed the landscape and made any further landscaping or growing of plants futile. They sought injunctive relief and damages.

Defendant denied the allegations.

Nature Of Injury: Property damage; physical and emotional injuries.

Expert Witnesses: n/a

Settlement: ***$20,000 on May 20, 2024*** *(in addition to other provisions)*.

Editor's Note: Defendants were to pay $5,000 to plaintiffs within 10 days of the settlement date, and $1,875 per month thereafter until the $15,000 was paid in full. In addition, defendant was to plant eight Leyland cypress trees, six feet tall, on the hillside of plaintiffs' property within 45 days. Plaintiffs were to allow defendants to fill a hollow with trees, limbs, and other tree parts for seven years, after which the hollow was to be covered with dirt. If the hollow was not filled within seven years, the parties could negotiate additional time. The court entered a final order ratifying the settlement on July 18, 2024. ■

(11) BOBBIE ENGRAM vs. PUBLIX SUPER MARKETS, INC. (United States District Court for the Northern District of Alabama, Southern Division)

County/Docket #/Judge: Jefferson / 2:23-cv-01120 / Annemarie Carney Axon

Plaintiff(s) Attorney(s): Kirby D. Farris of Farris, Riley, et al., Birmingham, AL

Defendant(s) Attorney(s): Meredith Jowers Lees and Frederick D. Clarke III of Rumberger, Kirk, et al., Birmingham, AL

Age/Sex/Occupation Of Plaintiff: n/a / F / n/a

Cause Of Injury: ***Negligence/Premises Liability/Slip and Fall in Supermarket***. On Aug. 24, 2023, plaintiff Bobbie Engram filed a complaint in state court against defendant Publix Super Markets, Inc., which removed the case to federal court. Plaintiff alleged that on Sept. 19, 2021, she was in defendant's store at Lakeshore Pavilion in Birmingham when she slipped and fell on a wet floor, injuring herself. Plaintiff brought claims for negligence/wantonness and for negligent hiring, training, and supervision.

On Oct. 7, 2024, defendant, which had denied the allegations, filed a motion for summary judgment. It stated on the day in question, plaintiff and her daughter, Bobbie Cummings, went to the store to pick up a cake order for plaintiff's grandson and learned from Shaina Staab, the bakery manager, that they were at the wrong location. As plaintiff and her daughter were walking toward the exit, plaintiff slipped and fell. Her daughter, who was walking in front of her, did not see her fall. The daughter had walked over the same spot without incident. Staab, who was the manager on duty, called paramedics. Plaintiff told Staab that the floor was slippery, but Staab saw no water or potential hazard. She scraped her foot along the floor and did not find it slippery. After paramedics arrived, and after plaintiff left the store, Staab photographed the floor, which was clean, dry, and free of hazards. Defendant stated that plaintiff did not notice any water or substance on her clothing after she fell and that she did not see anything on the floor that caused her to fall. Furthermore, although Cummings testified that she saw wet footprints in an aisle where she and plaintiff had walked, she did not know where they came from or how long they had been there. Moreover, the footprints were not in the area where plaintiff fell, and Cummings had not seen plaintiff walk through them.

Defendant argued that there was no evidence that it had knowledge of any unsafe condition. In addition, defendant contended, it had been raining before plaintiff's fall, which put plaintiff on notice of potential hazards, and it had no duty to keep the floor completely dry on a rainy day. Defendant also argued that if the floor were slippery, this was open and obvious to plaintiff, as Cummings testified that after Cummings almost slipped a couple of times, she warned plaintiff to be careful; according to Cummings, plaintiff repeatedly said, "Ooh, this floor." Finally, defendant argued, there was no evidence to support plaintiff's wantonness claim or her negligent hiring, training, and supervision claim.

Plaintiff conceded that the evidence did not support her claims for wantonness and for negligent hiring, training, and supervision. She argued that a genuine dispute of material fact existed as to whether there were wet footprints on the floor and that a reasonable jury could conclude that defendant had constructive notice of the footprints, which were part of an unusual accumulation of water and which were not an open and obvious danger.

Nature Of Injury: Personal injuries; pain and suffering.

Expert Witnesses: n/a

Judgment: For Defendant on May 5, 2025 (summary judgment).

Editor's Note: In its order granting defendant's motion for summary judgment, the court stated that although Cummings testified that she slipped a couple of times and saw a few wet footprints, this did not allow for the conclusion

that an unusual amount of rainwater had accumulated. Alabama courts did not consider normal amounts of rainwater tracked inside a building to be defective conditions. Furthermore, the court stated, plaintiff conceded that defendant lacked actual notice of any water on the floor. As for constructive notice, plaintiff had not testified that the water had any characteristic that made it reasonable to infer that it had been there a long time. Her testimony about wet footprints would not allow a reasonable fact finder to conclude that the water had been present for more than five to ten minutes. Thus, the court stated, defendant was entitled to summary judgment on the negligence claim, and plaintiff had conceded that her other claims were not supported by sufficient evidence. ■

(12) ROBERTA FOX, N.F., a Minor, By and Through Her Father and Next of Kin, Andrew Fox, and A.F., a Minor, By and Through Her Father and Next of Kin, Andrew Fox vs. MARGIE C. SWAIN (Circuit Court of Jefferson County, Alabama)

County/Docket #/Judge: Jefferson / 01-CV-2020-902401 / Tamara Harris Johnson

Plaintiff(s) Attorney(s): Bradford J. Griffin of Shunnarah Injury Lawyers, PC, Birmingham, AL

Defendant(s) Attorney(s): Mark David Hess of Hand Arendall, Birmingham, AL

Age/Sex/Occupation Of Plaintiff: N.F.: 6 / F / n/a; A.F.: 9 / F / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/ Broadside Collision***. On July 1, 2020, plaintiff Roberta Fox and minor plaintiffs N.F. and A.F., through their father, Andrew Fox, filed a complaint against defendant Margie C. Swain. Plaintiffs alleged that on Sept. 2, 2019, defendant negligently caused her vehicle to collide with a vehicle driven by Roberta Fox, in which N.F. and A.F. were passengers. As a result, plaintiffs were injured.

The parties agreed to settle the claims of the minor plaintiffs.

Daphne A. Hoyt, the guardian ad litem for the minor plaintiffs, submitted a report to the court on Aug. 10, 2024. She stated that Roberta Fox, the minor plaintiffs' grandmother, was driving her 2015 Dodge Dart south on 26th Street North at its intersection with 33rd Avenue North in Birmingham. Defendant was driving a 2005 Mercury Marquis west on 33rd Avenue North when she struck plaintiffs' vehicle broadside. Emergency personnel responded to the scene but the minor plaintiffs were not treated for injuries.

Hoyt stated that on Sept. 10, 2019, N.F. saw a chiropractor for neck pain and a headache. She was diagnosed with cervical spine sprain, vascular headache, tension headache, and cervical muscle spasms. N.F. rated her headaches with a pain score of 8/10 and her neck pain as 5/10. She went to 20 chiropractic sessions and was able to perform all activities of daily living without difficulty by her last session. A.F. also saw the chiropractor on Sept. 10, 2019, for back and knee pain. She was diagnosed with muscle spasms in her lower back, sprain ligament in the lower spine, and bilateral knee stiffness. She rated her back pain as 7/10 and her knee pain as 6/10. She also had 20 chiropractic sessions and was able to perform all activities of daily living without difficulty at the last session.

In her report, Hoyt stated that A.F. was in ninth grade. She was a good student and a member of the school basketball team. N.F. was in sixth grade. She stated that her favorite subject was writing. A.F. did not remember the collision but said she had completely healed from her injuries. N.F. did recall the collision, in which she was hit in the face by an airbag and briefly lost consciousness. She said she had no lasting effects. N.F. had occasional headaches, but her parents attributed these to not wearing her glasses.

Nature Of Injury: Cervical spine sprain, vascular headache, tension headache, and cervical muscle spasms (N.F.); muscle spasms in lower back, sprain ligament in lower spine, and bilateral knee stiffness (A.F.); pain and suffering.

Expert Witnesses: n/a

Settlement: ***$13,171 on June 11, 2025*** *($1,272.89 – attorney expenses for N.F.; $1,986.55 – attorney fees for N.F.; $789- chiropractic bill for N.F.; $1,986.56 – to be held by clerk of court in interest-bearing account until N.F. reached her majority or until disbursement for a bona fide reason was requested and approved; $1,272.90 – attorney expenses for A.F.; $2,373.30 – attorney fees for A.F.; $1,116.50 – chiropractic bill for A.F.; $2,373.30 – to be held by clerk of court in interest-bearing account until A.F. reached her majority or until disbursement for a bona fide reason was requested and approved)*.

Editor's Note: The court awarded Hoyt a fee of $2,100. On the date it approved the settlement, the court dismissed the case with prejudice. ■

(13) G.L., a Minor, By and Through Her Natural Parents and Next Friends, Michelle Romano Lee and George

Robert Lee vs. THE CHILDREN'S HOSPITAL OF ALABAMA (Circuit Court of Jefferson County, Alabama)

County/Docket #/Judge: Jefferson / 01-CV-2025-900892 / Monica Y. Agee

Plaintiff(s) Attorney(s): *Pro Se*

Defendant(s) Attorney(s): John M. Bergquist

Age/Sex/Occupation Of Plaintiff: 22 mos. / F / n/a

Cause Of Injury: ***Medical Malpractice/Hospital Care/ Child Develops Pressure Sore on Right Heel After Being Placed in Splint***. On March 7, 2025, plaintiff G.L., through her self-represented parents, Michelle Romano Lee and George Robert Lee, and defendant The Children's Hospital of Alabama filed a joint petition for a *pro ami* settlement. The parties stated that on Feb. 26, 2021, plaintiff was admitted to Children's Hospital after falling on a playground slide five days before. Plaintiff was diagnosed with a fracture of the right tibia and was placed in a long leg cast. She subsequently developed a pressure wound on her right heel, which required further treatment.

Samuel E. Wiggins, III, the guardian ad litem for plaintiff, submitted a report on May 23, 2025. He stated that plaintiff had sustained a "toddler fracture," so called because it typically occurred in children between nine months old and three years old and often happened during everyday activities such as stumbling, twisting, or even playing gently. After being placed in a posterior slab splint, plaintiff developed a pressure ulcer on her right heel. She underwent surgical debridement of the wound on June 11, 2021. On Feb. 1, 2022, plaintiff's injury was continuing to heal, and her parents were told to bring her back to the clinic as needed and to continue treating the area with Vitamin E massages and moisturizing ointment. Wiggins stated that aside from scarring on the bottom of her right foot, plaintiff was doing well. She had not been limited by the injury and had no complaints of pain. Wiggins stated that plaintiff showed no effects from the incident. Defendant had waived all costs associated with plaintiff's medical treatment.

Nature Of Injury: Pressure ulcer on right foot.

Expert Witnesses: n/a

Settlement: ***$100,000 on June 2, 2025*** *($97,500 – to fund structured settlement for the benefit of G.L.; $2,500 – to reimburse the Lees for out-of-pocket expenses).*

Editor's Note: The court awarded Wiggins a fee of $3,600. ■

(14) H.L., a Minor, Who Sues By and Through His Mother and Next Friend, KRISTEN LANDERS vs. ALYNA JUSTACIA LADOUCEUR and HELEN VASQUEZ (Circuit Court of Jefferson County, Alabama)

County/Docket #/Judge: Jefferson / 01-CV-2025-900740 / Monica Y. Agee

Plaintiff(s) Attorney(s): Saharah M. Lawrence of Morgan and Morgan Birmingham, PLLC, Birmingham, AL

Defendant(s) Attorney(s): Jon S. Crews of Slaughter & Associates, Birmingham, AL

Age/Sex/Occupation Of Plaintiff: 3 / M / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/ Injury to Minor Passenger Riding in Backseat***. On Feb. 25, 2025, plaintiff H.L., through his mother, Kristen Landers, filed a *pro ami* complaint against defendants Alyna Justacia Ladouceur and Helen Vasquez. Plaintiff alleged that on Jan. 12, 2023, on 26th Street in Jefferson County, Ladouceur, driving a vehicle owned by Vasquez, negligently and/or wantonly caused it to collide with the vehicle in which plaintiff was riding. As a result, plaintiff was injured.

Olive Wilcox, the guardian ad litem, submitted a report to the court on May 2, 2025. She stated that plaintiff, who was three at the time of the collision, was riding in the back seat. As an infant, plaintiff had undergone hernia surgery, from which he had fully recovered at the time of the collision. The impact caused him to sustain a groin injury, necessitating a second hernia surgery. Wilcox stated that plaintiff was currently doing well.

Nature Of Injury: Groin injury requiring hernia surgery; pain and suffering.

Expert Witnesses: n/a

Settlement: $25,000 on May 7, 2025 *($7,500 – attorney's fee; $255.33 – attorney's expenses; $1,000 – to be used for plaintiff to attend a summer camp program; $16,244.67 – to be held by clerk of court until plaintiff reached his majority).*

Editor's Note: The court awarded a fee of $2,700 to the guardian ad litem. ■

(15) SHONTIKA PARKER LEWIS vs. BCDC EMPLOYEECO, LLC and TENET HEALTHCARE CORPORATION d/b/a Princeton Baptist Medical Center

(United States District Court for the Northern District of Alabama, Southern Division)

County/Docket #/Judge: Jefferson / 2:23-cv-01701 / John H. England III

Plaintiff(s) Attorney(s): Daniel Patrick Evans of The Evans Law Firm, P.C., Birmingham, AL; Brandon Prince of BHM Law Group, LLC, Birmingham, AL

Defendant(s) Attorney(s): F. Daniel Wood, Jr., of The Kullman Firm, Birmingham, AL

Age/Sex/Occupation Of Plaintiff: n/a / F / Blood-Bank Worker

Cause Of Injury: ***Fair Labor Standards Act/Overtime Violations/Employee Claims That She Was Denied Overtime Despite Non-Exempt Status***. On Dec. 15, 2023, plaintiff Shontika Parker Lewis filed a complaint against defendants BCDC EmployeeCo, LLC, and Tenet Healthcare Corporation d/b/a Princeton Baptist Medical Center. Plaintiff alleged that she worked in defendants' blood bank as a non-exempt hourly employee. From August 2020 to June 2021, plaintiff averaged at least 50 hours of work per workweek. She rarely broke for lunch because the blood-work volume was constantly high. Plaintiff was paid overtime for only one week. On June 18, 2021, defendants offered to promote plaintiff to a "blood-bank supervisor" position. The offer letter described the position as non-exempt and hourly, which would allow plaintiff to continue to receive overtime. Plaintiff accepted the new position based on these representations and continued to clock in and out and to work an average of 50 hours per week. She had no managerial authority to hire, fire, or reprimand employees; rather, James Knox carried out these duties. In August 2021, Knox reprimanded plaintiff for using the time clock. He told her that she was a salaried employee who was not entitled to overtime. Plaintiff complained to Knox and to human resources about this, but defendants increased her workload and work hours without paying her overtime. On June 27, 2022, plaintiff resigned. She alleged violations of the Fair Labor Standards Act ("FLSA") as well as breach of contract, unjust enrichment, and conversion.

Defendants denied the allegations. They claimed that they acted in good faith, that plaintiff was properly paid, and that plaintiff was properly classified as an exempt employee.

The parties reached a settlement.

Nature Of Injury: Unpaid overtime.

Expert Witnesses: n/a

Settlement: ***$25,000 on May 29, 2025*** *($10,433.41 – attorneys' fees, costs, and expenses; $7,283.30 – for wage-based claims; $7,283.29 – for liquidated and non-wage-based damages)*.

Editor's Note: In its order approving the settlement, the court dismissed the case with prejudice. ■

(16) JERRY LEE PULLEN, Administrator of the ESTATE OF PAMELA PULLEN vs. JAYBRAIL WHITE, LASHANDA WHITE, and PROGRESSIVE DIRECT INSURANCE COMPANY (Circuit Court of Jefferson County, Alabama)

County/Docket #/Judge: Jefferson / 01-CV-2023-903022 / Javan Patton Crayton

Plaintiff(s) Attorney(s): Davis Middlemas of Frank S. Buck, P.C., Birmingham, AL

Defendant(s) Attorney(s): Ronald J. Gault of Gaines Gault, et al., Birmingham, AL, for Jaybrail White and Lashanda White

Age/Sex/Occupation Of Plaintiff: Pamela Pullen: n/a / F / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/Two-Vehicle Collision***. On Aug. 28, 2023, Pamela Pullen ("Pullen") filed a complaint against defendants Jaybrail White, Lashanda White, and Progressive Direct Insurance Company. Pullen later died and her administrator, plaintiff Jerry Lee Pullen, was substituted as a party. Pullen alleged that on Nov. 16, 2021, she was driving a 2021 Honda CR-V Touring FWD on Green Springs Avenue South at or near the intersection of 4th Place South Cedars Avenue in Birmingham when Jaybrail White, driving a 2008 Kia Sorento EX 4x2, negligently caused his vehicle to collide with Pullen's. As a result, Pullen was injured. She brought claims for negligence and wantonness against Jaybrail White and a claim for negligent entrustment against Lashanda White, who owned the vehicle. In addition, Pullen brought a claim for uninsured/underinsured motorist benefits against Progressive, which opted out.

The Whites denied the allegations.

The case went to the jury only on the negligence claim against Jaybrail White.

Nature Of Injury: Personal injuries; pain and suffering.

Expert Witnesses: n/a

Verdict: ***$15,000 for Plaintiff on April 9, 2025***.

Judgment: $15,000 for Plaintiff on April 10, 2025.

Editor's Note: Plaintiff filed a motion to tax costs on April 22, 2025. ■

LEE COUNTY

(17) MONTAVIOUS FINLEY, Individually as Father and Next Friend of J.F., a Minor vs. WILLIAM SIDNEY BEARD, JR. (Circuit Court of Lee County, Alabama)

County/Docket #/Judge: Lee / 43-CV-2023-900079 / Christopher J. Hughes

Plaintiff(s) Attorney(s): James R. Bowles of Law Offices of James R. Bowles, Tallassee, AL

Defendant(s) Attorney(s): W. Evans Brittain and Chalankis R. Brown of Ball, Ball, et al., Montgomery, AL

Age/Sex/Occupation Of Plaintiff: Montavious Finley: n/a / M / n/a; J.F.: Minor / M / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/ Injury to Minor***. On Oct. 20, 2023, plaintiff Montavious Finley, individually and as the father of minor plaintiff J.F., filed an amended complaint against defendant William Sidney Beard, Jr. Plaintiffs alleged that on Feb. 11, 2023, on U.S. 29 at or near the intersection of CR-270 and CR-830 in Lee County, defendant negligently and/or wantonly caused his vehicle to collide with one occupied by J.F. As a result, J.F. was injured and Finley's motor vehicle was damaged.

Defendant denied the allegations.

Nature Of Injury: Personal injuries; pain and suffering; property damage.

Expert Witnesses: n/a

Verdict: ***For Defendant on June 11, 2025***.

Editor's Note: On June 18, 2025, the court entered an order dismissing the case with prejudice. ■

MADISON COUNTY

(18) PAUL PAPAJOHN and ASHLYN PAPAJOHN vs. ANGIE CAWTHORNE and KENT CAWTHORNE (Circuit Court of Madison County, Alabama)

County/Docket #/Judge: Madison / 47-CV-2023-900090 / Ruth Ann Hall

Plaintiff(s) Attorney(s): Christopher S. Rodgers of Lanier Ford, et al., Huntsville, AL

Defendant(s) Attorney(s): Eric J. Artrip of Mastando & Artrip, LLC, Huntsville, AL

Age/Sex/Occupation Of Plaintiff: n/a

Cause Of Injury: ***Breach of Contract/Residential Lease/ Landlords Refuse to Return Prepaid Rent and Full Security Deposit After Tenants Give Notice***. On Jan. 25, 2023, plaintiffs Paul Papajohn and Ashlyn Papajohn filed a complaint against defendants Angie Cawthorne and Kent Cawthorne. Plaintiffs alleged that on June 21, 2022, they entered into a month-to-month residential lease with defendants. Plaintiffs paid a security deposit of $3,200 and prepaid rent through Aug. 31, 2022, in the amount of $7,363. The lease began on June 22, 2022. On July 30, 2022, the downstairs air-conditioning unit ceased to operate. Defendants arranged with a company called Air-Serve to repair or replace the unit. On Aug. 3, 2022, defendants told plaintiffs that the unit had been repaired, but two days later, it again stopped working. After another attempt at repair, it malfunctioned again on Aug. 7, 2022. The next day, the upstairs unit began to malfunction due to being overworked. It was then determined that the downstairs unit needed to be replaced, but defendants gave no timeline as to when. During this period, defendants requested that plaintiffs be home to meet with repair personnel. Paul Papajohn, a physician, was unable to take time from his practice, and although Ashlyn Papajohn agreed to be available at certain times, she could not continually accommodate defendants and the repair service. Defendants installed portable air-conditioners, which defendants controlled remotely. Meanwhile, plaintiffs, who had three young children, began staying with Ashlyn Papajohn's mother. During the week of Aug. 8 to 15, 2022, defendants denied plaintiffs access to the home's wi-fi system, remotely controlled the thermostats to the home to regulate the temperature, randomly activated the alarm system by remote access while plaintiffs were away, conducted surveillance of the property via security cameras, and demanded access to the house for unreasonable periods of time for unspecified reasons. On Aug. 14, 2022, plaintiffs decided to give the 14-day notice specified in the lease. The next day, Angie Cawthorne informed plaintiffs by email that the locks would be changed and that plaintiffs would be trespassing if they entered the property, even though plaintiffs had paid rent through the end of August. Defendant did not refund any portion of the prepaid rent and only partially refunded the security deposit. Plaintiffs brought a claim for breach of

contract and for violations of Ala. Code §§ 35-9A-401, 35-9A-407, and 35-9A-501, provisions of the Uniform Residential Landlord and Tenant Act. They sought $1,706.67 for prepaid rent, $3,200 for the security deposit, $83.91 for a hauling vehicle, $25.43 for storage costs, $20 for packing supplies, $40 for fuel, and $390 for labor.

Nature Of Injury: Economic loss.

Expert Witnesses: n/a

Settlement: ***$7,500 on June 25, 2024***.

Editor's Note: Under the settlement, defendants were to pay plaintiffs monthly installments of $500, beginning on July 1, 2025, and ending until the total amount of $7,500 was paid in full by Sept. 1, 2025. Defendants were to cancel a check for $1,005.95 for the remainder of the security deposit. ■

(19) NANCY MARIE SURLES, as Mother of Her Deceased Son, A.N.S., and as the Personal Representative of His Estate vs. CRESTWOOD MEDICAL CENTER, L.L.C., CRESTWOOD HEALTHCARE, L.P., d/b/a Crestwood Medical Center, ALABAMA WOMEN'S WELLNESS CENTER, P.C., and YASHICA ROBINSON WHITE, M.D. (Circuit Court of Madison County, Alabama)

County/Docket #/Judge: Madison / 47-CV-2020-901510 / D. Alan Mann

Plaintiff(s) Attorney(s): Jane F. Mauzy, Jeff Rickard, Richard Riley, and Ty Brown of Marsh Rickard, et al., Birmingham, AL

Defendant(s) Attorney(s): Joseph S. Miller and R. Todd Huntley of Starnes Davis, et al., Birmingham, AL, for Alabama Women's Wellness Center, P.C., and Yashica Robinson White, M.D.

Age/Sex/Occupation Of Plaintiff: Nancy Marie Surles: n/a / F / n/a; A.N.S.: Newborn / M / n/a

Cause Of Injury: ***Wrongful Death/Medical Malpractice/Obstetrics/Infant Suffers Brain Injury During Delivery***. On April 20, 2022, plaintiff Nancy Marie Surles, as the mother of her deceased minor son, A.N.S., and as the personal representative of his estate, filed a third amended complaint against defendants Crestwood Medical Center, L.L.C., Crestwood Healthcare, L.P., d/b/a Crestwood Medical Center, Alabama Women's Wellness Center, P.C. ("AWWC"), and Yashica Robinson White, M.D. (referred to in filings by the surname of Robinson). Plaintiff alleged that on Nov. 5, 2018, she saw Dr. Robinson at AWWC for a prenatal appointment. Plaintiff was 40 weeks' pregnant with her third child, A.N.S. She had delivered her first two children by Cesarean section and wanted to attempt a vaginal birth this time. Because her blood pressure was slightly elevated, Dr. Robinson decided to induce labor. That evening, plaintiff was admitted to Crestwood for a labor induction. Dr. Robinson initiated labor induction at 9:57 p.m. She also administered Pitocin. Plaintiff was still in labor as of 8:23 p.m. on Nov. 6. She felt pressure but was unable to effectively push. By 8:35 p.m., fetal heart rate ("FHR") tracings showed marked variability in the baseline FHR, prolonged decelerations, and an increase in the child's baseline FHR from 150 bpm to 160-170 bpm. At 8:58 p.m. and 9:04 p.m., Dr. Robinson attempted vacuum-assisted deliveries, but the vacuum popped off. At 9:33 p.m., Dr. Robinson ordered an emergency C-section. At this point, the baby was having bradycardia with a baseline FHR of 90 bpm with absent variability and recurrent prolonged decelerations.

Plaintiff stated that A.N.S. was delivered at 9:52 p.m. He had no detectable heart rate. Pediatric staff began resuscitation efforts, and a neonatologist, Dr. Mahmood Alasmi, arrived at 10:00 p.m. At 10:25 p.m., Dr. Alasmi heard heart rate sounds between 60 to 80 bpm. A.N.S. was transferred to the neonatal intensive care unit ("NICU") and placed on a ventilator. At Dr. Alasmi's order, he was transferred to Huntsville Hospital's NICU at 12:40 a.m. on Nov. 7, 2018. He remained there until Dec. 11, 2018. A.N.S. died when he was two years and five months old. He had never crawled or walked and received all nutrition through a gastronomy tube. Plaintiff alleged that due to the negligence of Dr. Robinson and the labor and delivery nurses, A.N.S., who had been healthy before the delivery process, sustained an anoxic brain injury, hypoxic ischemic encephalopathy, seizures, and other complications.

On April 14, 2025, the court granted plaintiff's motion to dismiss Crestwood Medical Center, L.L.C., without prejudice. Pursuant to a settlement, the court granted plaintiff's motion to dismiss Crestwood Healthcare, L.P., with prejudice on June 6, 2025.

With regard to the remaining defendants, Dr. Robinson and AWWC, plaintiff contended that Dr. Robinson failed to accurately interpret and properly respond to persistent non-reassuring patterns in the FHR tracings (late, variable, and prolonged decelerations and fetal bradycardia), improperly used Pitocin, and failed to perform a timely C-section. Plaintiff dismissed A.N.S.'s personal injury claims against Dr. Robinson and AWWC and proceeded to trial only on her claims for punitive damages for wrongful death under Ala. Code § 6-5-410.

Defendants denied the allegations.

Nature Of Injury: Death.

Expert Witnesses: n/a

Verdict: ***For Defendants on June 23, 2025***.

Judgment: For Defendants on June 23, 2025. ■

MOBILE COUNTY

(20) BRANDY THORNTON CONNELL, as Personal Representatives of the ESTATE OF DANIEL EVERETT CONNELL, Deceased vs. MOBILE HEART SPECIALISTS, P.C., WARREN D. HARDY, M.D., and KEVIN B. DEANDRADE, M.D. (Circuit Court of Mobile County, Alabama)

County/Docket #/Judge: Mobile / 02-CV-2021-901431 / Jay A. York

Plaintiff(s) Attorney(s): J. Allan Brown of Law Office of J. Allan Brown, LLC, Mobile, AL

Defendant(s) Attorney(s): Tamela E. Esham and Bryan D. Smith of Armbrecht Jackson LLP, Mobile, AL

Age/Sex/Occupation Of Plaintiff: Daniel Everett Connell (decedent): 42 / M / n/a

Cause Of Injury: ***Wrongful Death/Medical Malpractice/Cardiology/Cardiac Patient Dies After Being Discharged From Hospital***. On June 19, 2024, plaintiff Brandy Thornton Connell, as the personal representative of the estate of Daniel Everett Connell ("the decedent"), filed an amended complaint against defendants Mobile Heart Specialists, P.C., Warren D. Hardy, M.D., and Kevin B. DeAndrade, M.D. Plaintiff alleged that on Aug. 18, 2019, the decedent went to the emergency department of Providence Hospital for shortness of breath and chest pain. He was diagnosed with a ST-elevation myocardial infarction (STEMI). Dr. Hardy performed a cardiac catheterization, during which he placed an Xience Sierra stent in the decedent's right coronary artery, which had a greater than 90% blockage. The Xience stent carried an associated risk of stent thrombosis. When Dr. Hardy placed the stent, he failed to anticoagulate the decedent and used a balloon that was too large. The next day, an electrocardiogram ("EKG") showed a myocardial infarction finding still present. Dr. DeAndrade, who had been scheduled as the on-call cardiologist, was notified. He told the nurse to keep an eye on the decedent. Later, because the decedent was nauseated and vomiting, Dr. DeAndrade ordered a dose of Phenergan. After another abnormal EKG, Dr. Hardy ordered a cardiac echocardiogram transthoracic. Meanwhile, because the decedent was diabetic, Dr. James Michael Coleman, a hospitalist, was asked by the cardiologists to manage his diabetes. Following the cardiac echocardiogram transthoracic, the decedent was diagnosed with unspecified chest pain and unspecified dyspnea.

An EKG on Aug. 20, 2019, showed that the decedent's ST elevation had increased. Dr. Coleman saw him and found no evidence of diabetic ketoacidosis. Later that morning, Kimberly Webb, Dr. DeAndrade's nurse practitioner, sent a text message to Dr. DeAndrade stating that the decedent had acute pericarditis and wanted to go home. She asked about the standard time to keep a patient with acute myocardial infarction in the hospital. Dr. DeAndrade replied that the standard time was two days and that it was okay for the decedent to go home. After the decedent was sent home, his wife called Mobile Heart Specialists at about 8:50 p.m. She was concerned about the decedent's elevated blood sugar and about his continuing fatigue and nausea. Dr. Christopher S. Brown told her that she could start the decedent on his prescribed oral hypoglycemic agent for his elevated blood sugar.

The following day, at 3:50 p.m., the decedent was found dead in his bed. His cause of death was listed as ischemic heart disease due to coronary atherosclerosis.

Plaintiff alleged that Dr. Hardy and Dr. DeAndrade were negligent, inter alia, in failing to recognize the signs and symptoms of the acute myocardial infarction that caused the decedent's death, in failing to comply with protocols regarding patients with symptoms and/or EKG abnormalities consistent with acute myocardial infarction caused by stent thrombosis, in failing to send the decedent back to the catheterization lab on Aug. 19 or Aug. 20, 2019, while he was still having persistent ST elevation and increasing heart rate, in failing to recognize in-stent thrombosis, in failing to recognize the adverse events that might be associated with percutaneous coronary intervention treatment procedures and the use of a coronary stent in native coronary arteries, and in failing to keep the decedent in the hospital on cardiac telemetry. In addition, she claimed that Dr. Hardy was also negligent in failing to properly anticoagulate the decedent and in failing to use the correct balloon size for the stent. Plaintiff alleged that Mobile Heart Specialists was vicariously liable for the physicians' negligence.

Defendants denied the allegations.

Nature Of Injury: Death.

Expert Witnesses:

Plaintiff's:
Brian O'Murchu, M.D., Cardiology, Philadelphia, PA

Defendant's:
n/a

Verdict: ***For Defendants on Jan. 16, 2025***.

Judgment: For Defendants on Jan. 17, 2025. ■

(21) NICHOLAS L.O. CRISWELL and JESSIE J. CRISWELL vs. SSAB ALABAMA, INC., WILLIAM B. RHUE, KEVIN P. SIVERLY, and KASE CONTRACTING, INC. (Circuit Court of Mobile County, Alabama)

County/Docket #/Judge: Mobile / 02-CV-2023-900238 / Michael A. Youngpeter

Plaintiff(s) Attorney(s): Eaton G. Barnard of Eaton Barnard, P.C., Mobile, AL

Defendant(s) Attorney(s): John C. Webb, V, and Athanasia "Sia" K. Newman of Lloyd, Gray, et al., Birmingham, AL, for Kase Contracting, Inc.

Age/Sex/Occupation Of Plaintiff: Nicholas L.O. Criswell: n/a / M / Electrician

Cause Of Injury: ***Worker's Compensation/Injury by Accident/Worker Electrocuted When Generator Is Activated***. On April 17, 2024, plaintiffs Nicholas L.O. ("Nick") Criswell and Jessie J. Criswell filed an amended complaint against defendants SSAB Alabama, Inc., William B. Rhue, and Kevin P. Siverly ("the SSAB defendants") and defendant Kase Contracting, Inc. Plaintiffs alleged that on Oct. 13, 2022, Nick Criswell, an electrician employed by Kase Contracting, was sent to perform preventative maintenance on SSAB's electrical power system. He was to inspect and clean the electrical equipment inside the ER7 and ER14 high voltage power switches. During this period, electrical power in that part of the plant was to be turned off or "locked out." Rhue, SSAB's electrical engineer, was to oversee locking-out the power. As Nick Criswell was working at ER14, Daryl Tomlinson, another SSAB employee, was in the area of ER7, where the power had also been turned off. He asked Siverly for assistance in turning on a back-up generator. ER7 had two breakers that were not to be closed at the same time because doing so would feed back electricity to ER14. Tomlinson and Siverly, however, closed both breakers in order to start the generator. This back-fed 35,000 volts of electricity back to ER14, electrocuting Nick Criswell. The voltage prevented him from removing his right hand from an energized buss bar and ignited both his clothes and the denatured-alcohol-soaked rags he was holding. His boss and a coworker were finally able to yank him away and extinguish the flames. Nick Criswell sustained burns to his hands, arms, legs, stomach, and back and a left rotator cuff tear. Because he had little to no use of his right hand, he was required to use his left hand, arm, and shoulder, which made his left shoulder more painful. He also had depression, anxiety, nightmares, and other psychological effects. Plaintiffs brought claims for outrage, negligence, recklessness/wantonness, and premises liability against the SSAB defendants and for worker's compensation benefits against Kase Contracting. He stated that he needed surgery on his left shoulder but had to pay for it himself because Kase refused to pay for it.

On April 15, 2025, pursuant to the parties' joint motion, the court dismissed plaintiffs' claims against the SSAB defendants.

The parties agreed to settle Nick Criswell's worker's compensation claim against Kase Contracting. They stated that Dr. Charles Butts, who treated Criswell for his burns, had placed him at maximum medical improvement on Oct. 17, 2023, with a one percent permanent physical impairment rating of one percent to the body as a whole. The parties also stated that court had found that the left shoulder injury was compensable but that there was no need for further treatment expected, that Criswell had not suffered any permanent limitations or impairments to the left shoulder, and that Criswell was not entitled to permanent disability benefits for his left shoulder. The parties stated that Kase Contracting had a worker's compensation lien of $247,973.73 with respect to Criswell's third-party claim against SSAB.

Nature Of Injury: Burns to his hands, arms, legs, stomach, and back; left shoulder injury.

Expert Witnesses: n/a

Settlement: ***$148,784.24 on April 29, 2025*** *(to be paid by plaintiff to Kase Contracting in exchange for a release from Kase Contracting's $247,973.73 worker's compensation lien)***.**

Editor's Note: The settlement closed all worker's compensation benefits. Pursuant to the parties' joint stipulation, the court dismissed the worker's compensation claims with prejudice on May 2, 2025. ■

(22) CLARENCE L. ROBERTS and ARKYLA MILLER vs. BENTARIUS FONTA STEWART and UNLIMITED

DELIVERIES, LLC d/b/a MK-TRUCKING (United States District Court for the Southern District of Alabama, Southern Division)

County/Docket #/Judge: Mobile / 1:22-cv-00187 / Kristi K. DuBose

Plaintiff(s) Attorney(s): W. Bradford Kittrell, Brett W. Aaron, and Mallory J. Mangold of Andy Citrin Injury Attorneys, PC, Daphne, AL

Defendant(s) Attorney(s): Albert Trousdale, II, of Trousdale Ryan, P.C., Florence, AL; Jonathan Keith Corley of Whittelsey & Corley, LLC, Opelika, AL; Joseph L. Cowan II of Hand Arendall, et al., Birmingham, AL; Christine Harding Hart of Hand Arendall, et al., Mobile, AL

Age/Sex/Occupation Of Plaintiff: Clarence L. Roberts: n/a / M / n/a; Arkyla Miller: n/a / F / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/ Tractor-Trailer Runs Through Stop Sign and Drags Automobile Underneath***. On April 7, 2022, plaintiffs Clarence L. Roberts and Arkyla Miller, a married couple who resided in Alabama, filed a complaint in state court against defendants Bentarius Fonta Stewart and Unlimited Deliveries LLC d/b/a MK-Trucking. They alleged that at about 7:52 p.m. on March 15, 2022, Stewart, who was driving a tractor-trailer for Unlimited Deliveries, ran a stop sign at Red Fox Road. He collided with a 2018 Honda Accord being driven north on U.S. 43 by Roberts, who had the right of way. As a result, Roberts' vehicle was dragged underneath the trailer, and Roberts sustained a traumatic brain injury and other personal injuries. Plaintiffs brought claims for negligence, wantonness, negligent hiring, retention, monitoring, supervision, and/or training, and wanton hiring, retention, monitoring, supervision, and/or training. They also sought damages for loss of consortium for Miller.

Defendants, residents of Mississippi, subsequently removed the complaint to federal court on diversity grounds. Roberts stated that his dog crawled beneath his legs, thereby preventing him from braking.

On Oct. 22, 2024, the court granted partial summary judgment to defendants on the claims for negligent and wanton employment. The court stated that Stewart had been issued one speeding ticket in 2018, more than three years before he was hired by Unlimited. Although Stewart was issued a citation for careless driving in March 2020, which he testified was based on his having racing tires on his personal vehicle, this did not show that he was unable to properly drive a vehicle. In addition, the court stated, although Stewart had inaccurately reported his professional driving miles and not disclosed his careless driving citation, these were administrative in nature and did not prove he was an incompetent driver. Although Stewart was violating company policy by having his dog and an unauthorized passenger, a relative, in the vehicle at the time of the collision, this did not prove habitual negligence on his part. The court added that Stewart's record had fewer blemishes than those of other drivers who Alabama courts had held were not incompetent as a matter of law.

With regard to the surviving claims for negligence and wantonness, the parties agreed that Stewart, who was driving a 2021 Kenworth tractor with an empty flatbed trailer, was operating the tractor-trailer in the line and scope of his employment with Unlimited. Following the collision, Roberts was diagnosed with nondisplaced posterior rib fractures at 5-9 and was admitted to intensive care for observation due to issues with the rib fractures. Roberts had been receiving Social Security disability benefits since October 2013 for intellectual disability and back issues. The back issues stemmed from a work injury on May 28, 2013, that resulted in a herniated disc at L5-S1.

Defendants disputed that Roberts had sustained a traumatic brain injury. They also contended that the collision did not aggravate Roberts' preexisting back condition.

Plaintiffs claimed that video evidence showed that Stewart was looking at his phone before the collision, in which he crossed all four lanes of U.S. Highway 43 after running the stop sign. They also stated that Stewart was given a urine test. He tested positive for THC by adulterating the urine sample with bleach and refusing a second request.

Nature Of Injury: Traumatic brain injury, fractured ribs, and other personal injuries; pain and suffering; loss of consortium.

Expert Witnesses:

Plaintiff's:
Todd Edmiston**,** M.D. Orthopedic Surgery, Daphne, AL
Corrin Clayton, R.N., B.S.N., Life Care Planning, Honea Path, SC
Anne L. Foundas, M.D., Neurology, New Orleans, LA

Defendant's:
Lauren Rasmussen, Psy.D., Neuropsychology, Baton Rouge, LA
Richard Katz, M.D., Physical Medicine and Rehabilitation, Woodbridge, CT
Arthur Sandy, M.D., Radiology, Birmingham, AL

Verdict: ***$6,000,000 for Plaintiffs on May 15, 2025*** *($6,000,000 – compensatory damages; $0 – loss of consortium)*.

Judgment: $6,000,000 for Plaintiff on May 16, 2025.

Editor's Note: The jury found that plaintiff had not proven that Stewart's conduct was consciously wanton. On May 16, 2025, the court entered judgment against Miller on her loss of consortium claim. Defendants filed a motion for new trial or for remittitur on June 13, 2025. ■

(23) ROGERS & WILLARD, INC. vs. FORT CONDE RESTORATION VENTURE, LLC and POSNER-VOLPER COMPANY, INC. (Circuit Court of Mobile County, Alabama)

County/Docket #/Judge: Mobile / 02-CV-2022-900038 / Michael A. Youngpeter

Plaintiff(s) Attorney(s): C. William Daniels, Jr., and K. Brynt Hitson of Burr & Forman LLP, Mobile, AL

Defendant(s) Attorney(s): Thomas H. Benton, Jr., of Benton Law Firm, LLC, Mobile, AL

Age/Sex/Occupation Of Plaintiff: n/a

Cause Of Injury: ***Breach of Contract/Implied Contract/Construction Contract/Contractor Seeks Payment for Construction and Remodeling Job***. On Jan. 10, 2022, plaintiff Rogers & Willard, Inc., filed a complaint against defendants Fort Conde Restoration Venture, LLC ("FCRV") and Posner-Volper Company, Inc. Plaintiff alleged that on May 22, 2019, it contracted to perform construction and remodeling work for defendants at the Fort Conde Village site in Mobile. On several occasions, the contract was modified to account for changes desired by defendants, which also asked for work to be performed over and above that required by the contract. After plaintiff completed the work, defendants accepted it, but defendants had not tendered payment. Plaintiffs brought claims for breach of contract, quantum meruit, and implied contract.

Defendants denied the allegations. In an unsuccessful motion for summary judgment filed on April 2, 2025, they stated that FCRV, owned by Larry Posner and David Posner, was formed in 1998 to lease and restore Fort Conde Village, which had previously been a blighted area. Posner-Volpe Company, a New York corporation, was not a party to the contract and was not involved in the project. Defendants alleged that while plaintiff had sought and received approval for the first few changes it made, plaintiff waited until the end of the job or until after the work was performed to submit the majority of the change orders, giving rise to the dispute at hand.

Only the claims against FCRV for breach of written contract and breach of implied contract (quasi-contract) went to the jury.

Nature Of Injury: Economic loss.

Expert Witnesses: n/a

Verdict: *$689,744.13 for Plaintiff on May 13, 2025***.**

Judgment: $1,215,755.13 for Plaintiff on May 22, 2025 ($689,744.13 – damages; $250,000 – interest; $276,011 – attorneys' fees).

Editor's Note: The jury found in favor of plaintiff on both claims. The parties stipulated to the amount of interest and attorneys' fees. On June 20, 2025, FCRV filed a motion for judgment as a matter of law or, in the alternative, for a new trial. The court denied the motion on June 23, 2025. ■

(24) DAVID R. ROGERS vs. TIFFIN MOTOR HOMES INC. and DIXIE RV SUPERSTORES OF GRAND BAY, LLC d/b/a Great American RV Superstores (United States District Court for the Southern District of Alabama, Southern Division)

County/Docket #/Judge: Mobile / 1:23-cv-00164 / P. Bradley Murray

Plaintiff(s) Attorney(s): Kenneth J. Riemer of Riemer Law, LLC, Mobile, AL

Defendant(s) Attorney(s): Weathers Bolt, Scott D. Stevens, and Grace Ann Azar of Starnes Davis, et al., Mobile, AL

Age/Sex/Occupation Of Plaintiff: n/a / M / Retired

Cause Of Injury: ***Breach of Warranties/Revocation of Acceptance/Retiree Discovers New Motorhome Has Leaks and Other Defects***. On Feb. 16, 2024, plaintiff David R. Rogers filed an amended complaint against defendant Tiffin Motor Homes Inc. and Dixie RV Superstores of Grand Bay, LLC d/b/a Great American RV Superstores. Plaintiff alleged that on June 11, 2021, he bought a new 2021 Phaeton 40 IH Class A Diesel motorhome for $393,447.47. Plaintiff made a $60,000 downpayment and financed the rest. The motorhome, which was manufactured by Tiffin and purchased through Great American,

came with express warranties, including a House/Coach/Powerglide Chassis Limited Warranty. It was also expressly warranted to be new and free of manufacturing defects. A "walkthrough" test drive, however, revealed a number of issues, so the motorhome was not ready for delivery until June 29, 2021. Soon afterward, plaintiff found that many of the problems detected during the walkthrough had not been resolved, and he discovered other issues as well. These included failures in the airbags that leveled and stabilized the coach, failure of the slides and retracting awning systems, failure of the electronic fluid level detection system, and recalls concerning the engine fuel line and seatbelt. Furthermore, plaintiff stated, the most serious issue concerned holes, cracks, and other breaches that caused water to intrude into the spaces between the outer walls and roof and the interior walls and ceiling of the coach. These breaches were not visible, so plaintiff did not realize that the coach was leaking until the built-up water became visible in June 2022. In August 2022, after being told that the leaks had been repaired, plaintiff went on a trip with his grandchildren to Florida. During a heavy rain, water began leaking down the walls, forcing the family to cut the trip short and return to Mobile. As plaintiff was cleaning up after the leak, he noticed an oily liquid, a foul smell, and a dark substance. He suspected mold, which was confirmed by testing. Plaintiff and his wife also had elevated levels of mold-related toxins in their urine. An inspection at Tiffin's facility in Red Bay showed at least four spots where water was leaking into the coach. Some of the leaks could not be seen without removing the awning assembly.

Through counsel, plaintiff revoked his acceptance of the motorhome on Nov. 1, 2022. At that point, it had been out of service for at least 215 days since plaintiff purchased it, but defendants refused to provide a full refund.

Plaintiff brought claims for breach of express warranties, breach of implied warranty of merchantability, breach of implied warranty of fitness for a particular purpose, violation of Magnuson-Moss Warranty Act ("MMWA"), negligent construction, and revocation of acceptance.

On Oct. 11, 2024, the court granted defendants' motion for summary judgment in part. As a result, the claims for breach of express warranties and violation of the MMWA against Tiffin remained, and the claim for revocation of acceptance against Great American remained.

The court held a bench trial.

In a post-trial brief, Tiffin contended that it had repaired or replaced defects under its limited warranty, the purpose of which was not to provide a defect-free product but to repair any defects that occurred. Tiffin stated that most of the defects had been repaired on the first attempt and Tiffin kept working on the other issues until they were resolved. Furthermore, Tiffin argued, even if the exclusive remedy had failed its essential purpose, plaintiff had not proven diminished value. Tiffin also contended that plaintiff was not entitled to consequential and incidental damages, including mental anguish damages.

Great American in its post-trial brief argued that plaintiff's remedy for manufacturing defects was under Tiffin's limited warranty. The presence of a manufacturing defect, it contended, was not a non-conformity, as Great American did not make any representations as to the absence of manufacturing defects. In addition, Great American argued, plaintiff had failed to prove substantial impairment and timeliness.

Nature Of Injury: Economic loss; mental anguish.

Expert Witnesses:

Plaintiff's:
Patrick Meyer, RV Inspection, Foley, AL

Defendant's:
Steve Hayes, Mold Analysis, Midlothian, VA
Doug Lown, RV Systems, Repair, and Appraisal, Carthage, MO

Judgment: $205,437.40 for Plaintiff on June 10, 2025 (revocation of acceptance damages totaling $205,437.40 plus attorney's fees and costs under the MMWA in an amount to be determined later).

Editor's Note: In its memorandum opinion, the court stated that the evidence showed that the motorhome had numerous latent defects from the beginning. As a result, it did not conform to the new, reasonably reliable, and defect-free unit that plaintiff was entitled to believe he would receive. Despite the fact that many of the defects had been repaired before plaintiff revoked his acceptance, the value of the motorhome remained substantially impaired. The court found that plaintiff was not entitled to recover the full purchase price for revocation of acceptance; rather, he was entitled to recover only the $147,950.48 in payments he had made. In addition, the court stated, plaintiff was entitled to $7,486.92 in incidental and consequential damages, comprising $4,825.27 he paid separately for necessary towing equipment and its installation, $450 for a reserved parking spot for football games that he was unable to use, and $2,211.65 for insurance he paid after revoking his acceptance. In addition, the court stated, plaintiff was entitled to recover $50,000 in mental anguish damages. It noted that plaintiff had bought the motorhome in order to

travel with his family in retirement but had suffered from anxiety, frustration, disappointment, worry, annoyance, and inconvenience.

The court also found that plaintiff was entitled to recover for his breach of express warranty and MMWA claims against Tiffin. It stated that the extensive water damage and repairs to the motorhome prevented it from being restored to its fair market value free from defects; accordingly, the repair-and-replace warranty had failed of its essential purpose. As for damages on the warranty claim, the court stated that plaintiff sought diminution in value damages only if the court did not award revocation damages; accordingly, it would not award damages for the loss in value. Incidental and consequential damages would be duplicative of those included as part of the revocation damages. Plaintiff was entitled under 15 U.S.C.S. § 2310(d)(2) to recover attorney's fees and costs for violation of the MMWA. The court stated that it would determine the appropriate amount of such fees and costs upon submission of a motion under Fed. R. Civ. P. 54(d).

On June 24, 2025, plaintiff filed a motion to amend judgment to reflect post-trial loan and insurance payments he had made and to clarify that due to his successful revocation of acceptance, there was no outstanding loan obligation. ■

MONTGOMERY COUNTY

(25) DONNA EVERETT, as the Widow and Dependent of Lowell Everett, Deceased, and as the Personal Representative of the ESTATE OF LOWELL EVERETT, Deceased vs. SHELBY CONCRETE, INC. and STEVE McCAIN (Circuit Court of Montgomery County, Alabama)

County/Docket #/Judge: Montgomery / 03-CV-2022-900705 / James H. Anderson

Plaintiff(s) Attorney(s): Jeremy Knowles of Morris Haynes Law Firm, Birmingham, AL; Randall S. Haynes of Morris Haynes Law Firm, Alexander City, AL; Charles Price of Charles Price Attorney at Law, Montgomery, AL

Defendant(s) Attorney(s): Micheal S. Jackson and Scott M. Speagle of Webster, Henry, et al., Montgomery, AL

Age/Sex/Occupation Of Plaintiff: Lowell Everett (decedent): n/a / M / Maintenance Worker

Cause Of Injury: ***Wrongful Death/Negligence/Workplace Injury/Contractor Fatally Injured When Conveyor Belt Activates and Causes Him to Fall Into Hopper***. On June 2, 2023, plaintiff Donna Everett as the widow and as the personal representative of the estate of her deceased husband, Lowell Everett ("the decedent"), filed a second amended complaint against defendant Shelby Concrete, Inc., and defendant Steve McCain, the general manager for Shelby Concrete. Plaintiff alleged that Shelby Concrete contracted with a company known as L & M to replace a waste bearing on an auger at Shelby Concrete's concrete processing plant in East Montgomery. On May 27, 2022, the decedent and a helper, Randy Hughes, who were employed by L & M, came to the plant to perform the contracted-for work. The plant had a conveyor belt that deposited raw materials into a large hopper. The work required the men to stand on the conveyor. Before beginning to work, the decedent advised defendant's control room operator, Mark Bethune, that he and Hughes would be working on the conveyor belt, and Bethune assured him that it would not be placed in operation. After the men had been working for about an hour, the conveyor belt suddenly began moving, causing both men to lose their footing. Hughes was able to grab some barbed wire, but the decedent fell into the hopper. He sustained severe head injuries, from which he died on June 18, 2022. Plaintiff alleged that defendants were negligent in activating the conveyor belt, that the conveyor belt did not sound an alarm before starting, as it was supposed to, and that defendants failed to "lockout/tagout" the conveyor belt. She brought claims for negligence/wantonness, negligent/wanton hiring, training, and supervision, and for her own loss of consortium.

Defendants denied the allegations.

Nature Of Injury: Death; loss of consortium.

Expert Witnesses: n/a

Verdict: ***$2,600,000 for Plaintiff on May 23, 2025*** *($500,000 – compensatory damages for the decedent's personal injuries; $100,000 – loss of consortium; $2,000,000 – punitive damages).*

Judgment: $2,600,000 for Plaintiff on June 6, 2025. ■

(26) NATASHA JONES, JONESSA JONES, and JAKAYA SANDERS, Individually and on Behalf of All Other Similarly Situated Individuals (United States District Court for the Middle District of Alabama, Northern Division)

County/Docket #/Judge: Montgomery / 2:22-cv-00020 / Emily C. Marks

Plaintiff(s) Attorney(s): Eric Sheffer of Wiggins, Childs, et al., Birmingham, AL; Kevin J. Stoops of Sommers

Schwartz, P.C., Southfield, MI; Jesse L. Young of Sommers Schwartz, P.C., Kalamazoo, MI

Defendant(s) Attorney(s): Charles A. Stewart III and Jessica Sparhawk of Bradley Arant, et al., Montgomery, AL; T. Matthew Miller and Anne Knox Averitt of Bradley Arant, et al., Birmingham, AL

Age/Sex/Occupation Of Plaintiff: Natasha Jones: n/a / F / Customer Service Representative; Jonessa Jones: n/a / F / Customer Service Representative

Cause Of Injury: ***Fair Labor Standards Act/Wage and Hour Violations/Customer Service Representatives Not Paid for Preliminary Work or for Overtime and Made to Work During Lunch***. On Jan. 11, 2022, plaintiffs Natasha Jones, Jonessa Jones, and JaKaya Sanders, individually and on behalf of similarly situated persons, filed a complaint under the Fair Labor Standards Act against defendant ASK Telemarketing, Inc. Plaintiffs alleged that defendant employed plaintiffs as hourly customer service agents, both at its call center in Montgomery and remotely. Natasha Jones worked from 2015 to 2020, Jonessa Jones worked from 2020 to 2021, and Sanders worked from 2015 to 2019. Although defendant required the agents to work a set schedule, it did not begin compensating them until they had started their computers, logged into the necessary applications, and logged into their timekeeping system. This could take 15 to 30 minutes or even longer, particularly when the agents had technical difficulties with the computer system, which could happen as often as once a week. The agents could not use the time for their own purposes; even when technical difficulties lasting over an hour occurred, they had to stay on the premises or near their computers. Because plaintiffs were expected to be ready to take calls at the beginning of their shifts, they often had to arrive 15 minutes early to complete the login process. Furthermore, defendant required plaintiffs to work overtime, often five hours or more a week, but it often edited time records to remove unscheduled overtime hours, such as when a call went on too long or they got too many calls. Even when plaintiffs were compensated for overtime, it was not at the required time-and-a=half rate. In addition, plaintiffs alleged, defendant would require plaintiffs to work during their unpaid lunch period by documenting calls, by taking additional calls, or by having to log in before resuming their shift. Plaintiffs complained about these things to defendant, but no action was taken.

On April 21, 2022, the parties stipulated to the joint dismissal of Sanders' claims with prejudice.

The parties agreed to a settlement.

Nature Of Injury: Unpaid wages and overtime.

Expert Witnesses: n/a

Settlement: ***$222,500 on May 29, 2025***.

Editor's Note: The settlement included up to $99,011 in attorneys' fees, $6,604.46 in litigation expenses, up to $2,500 each to the two named plaintiffs, up to $2,780 to the 139 members whose claims fell outside of the limitations period, up to $23,037 to the 110 members whose claims fell between two and three years of the statute of limitations, $77,672 to the remaining members, and up to $8,000 to a third party to administer the settlement. Plaintiffs had sought litigation expenses of $7,000, but the court stated that their counsel represented that they had incurred $6,604.46 and did not offer an explanation for the figure of $7,000. ■

(27) DEJA PETTIWAY, T.J.J. and T.O.J., Minors Who Sue By and Through Their Mother and Next Friend, Deja Pettiway, and Z.J., a Minor Who Sues By and Through Her Mother and Next Friend, Tameka McLean vs. CATHY ELLIS (Circuit Court of Montgomery County, Alabama)

County/Docket #/Judge: Montgomery / 03-CV-2023-901155 / J. R. Gaines

Plaintiff(s) Attorney(s): Carshala T. Youse of Hawthorne, Atchison, et al.,

Defendant(s) Attorney(s): Joshua B. Beard of Slaughter & Associates, Birmingham, AL

Age/Sex/Occupation Of Plaintiff: T.J.J.: 4 / M / n/a; T.O.J.: 6 / M / n/a; Z.J.: 9 / F / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/T-Bone Collision Involving Turning Vehicle***. On Oct. 17, 2024, plaintiff Deja Pettiway, individually and on behalf of minor plaintiffs T.J.J. and T.O.J., and plaintiff Tameka McClean, on behalf of minor plaintiff Z.J., filed an amended complaint against defendant Cathy Ellis. Plaintiffs alleged that on Aug. 21, 2021, Pettiway, with the three minor plaintiffs as passengers, was driving north on Coliseum Boulevard in Montgomery County. At the time, the street was wet from rain. Defendant, who was traveling south on Coliseum Boulevard, was trying to turn left into a private drive. In an effort to "beat" oncoming traffic, she turned in front of plaintiffs' vehicle, causing a T-bone collision between her vehicle and plaintiffs' vehicle. As a result, plaintiffs were injured.

Plaintiffs brought negligence and wantonness claims against defendant.

The parties agreed to settle the claims of the minor plaintiffs.

Nature Of Injury: Personal injuries; pain and suffering.

Expert Witnesses: n/a

Settlement: ***$3,000 on Nov. 12, 2024*** *($575.75 – attorney's fees and costs for T.J.J.; $424.25 – to be used by Pettiway for the benefit of T.J.J.; ($575.75 – attorney's fees and costs for T.O.J.; $424.25 – to be used by Pettiway for the benefit of T.O.J.; $575.63 – attorney's fees and costs for Z.J.; $424.37 – to be used by McLean for the benefit of Z.J.)***.**

Editor's Note: The court awarded the guardian ad litem, Tamika Watkins, a fee of $1,650. On Dec. 23, 2024, the court dismissed the action with prejudice pursuant to the parties' joint stipulation. ■

(28) VICTOR FLORES RIVERA vs. THEODORE AKWUBA, JOHN AKWUBA, and JOHN PAUL AKWUBA, JR., d/b/a JP AUTOS, INC. (Circuit Court of Montgomery County, Alabama)

County/Docket #/Judge: Montgomery / 03-CV-2022-901187 / Brooke E. Reid

Plaintiff(s) Attorney(s): Robert J. Leavell and Barry C. Leavell of Leavell & Associates Attorneys at Law, LLC, Montgomery, AL

Defendant(s) Attorney(s): *Pro Se* (Theodore Akwuba)

Age/Sex/Occupation Of Plaintiff: n/a / M / n/a

Cause Of Injury: ***Fraud/Breach of Contract/Deceptive Trade Practices/Breach of Fiduciary Duty/Used-Car Buyer Never Receives Title***. On May 24, 2023, plaintiff filed an amended complaint against defendants Theodore Akwuba, John Akwuba, and John Paul C. Akwuba, Jr., d/b/a JP Autos, Inc. Plaintiff alleged that he had previously worked with John Akwuba, through whom he met Theodore Akwuba. He asked Theodore Akwuba if he had any cars to sell. On July 16, 2022, he met Theodore Akwuba at JP Autos, Inc., to test-drive a 2011 Town & Country van. The next day, he paid Theodore Akwuba $3,700 in cash for the van in front of a Publix on Vaughn Road. Theodore Akwuba did not give plaintiff title to the vehicle. He said that he had to order it but would deliver it to plaintiff as soon as it came in. Defendants never did deliver a title to plaintiff, nor did they provide him with a photocopy of the title application. Plaintiff eventually became concerned that he might have bought a stolen vehicle. He took the paperwork to the Montgomery police department and was told that although the van was not stolen, it did not have the correct tags. Plaintiff brought claims for fraud, breach of contract, and violation of the Alabama Deceptive Trade Practices Act.

Plaintiff filed a motion for default judgment on July 5, 2023. At a hearing on the motion on July 26, 2023, both John Paul Akwuba and Theodore Akwuba appeared. Plaintiff made an oral motion to dismiss John Paul Akwuba from the action, which the court granted. It gave Theodore Akwuba 10 days to file a responsive pleading.

Theodore Akwuba did not file a response.

The court held a trial, at which Theodore Akwuba did not appear.

Nature Of Injury: Economic loss.

Expert Witnesses: n/a

Judgment: $13,181.22 for Plaintiff on June 13, 2024 (against Theodore Akwuba: $10,000 – damages; $681.22 – costs; $2,500 – attorney's fees). ■

SHELBY COUNTY

(29) KAITLIN "KATIE" RICHARDSON vs. KIRKLAND WRECKER SERVICE, LLC, and MATTHEW B. HADAWAY (Circuit Court of Shelby County, Alabama)

County/Docket #/Judge: Shelby / 58-CV-2021-900620 / Jonathan A. Spann

Plaintiff(s) Attorney(s): Kenneth E. Riley and Don McKenna of Farris, Riley, et al., Birmingham, AL

Defendant(s) Attorney(s): Lisha L. Graham and Jackson M. Neal of White Arnold, et al., Birmingham, AL

Age/Sex/Occupation Of Plaintiff: n/a / F / n/a

Cause Of Injury: ***Negligence/Motor Vehicle Collision/Tow Truck Makes Left Turn Into Oncoming Traffic***. On Oct. 15, 2021, plaintiff Kaitlin "Katie" Richardson filed a complaint against defendants Kirkland Wrecker Service, LLC, and Matthew B. Hadaway. She alleged that on Oct. 31, 2019, she was driving north on Coun-

ty Road 95 at its intersection with Industrial Road in Jefferson County when Hadaway, who was driving a tow truck for Kirkland Wrecker, turned left in front of plaintiff's oncoming vehicle despite not having the left-turn green-arrow indicator light. As a result, the vehicles collided. Plaintiff sustained multiple injuries, including an open fracture of her left femur, bilateral femur fractures, 11 broken ribs, a fractured eye socket, a left femur neck fracture, a left patellar fracture, lacerations to her liver, kidney, spleen, a broken left wrist, a significant loss of blood, and a traumatic brain injury. She had to undergo rehabilitation therapy and had to add a chair lift and other equipment to her home. In order to provide plaintiff with 24-hour care, plaintiff's mother had to use all of her accrued vacation time and take additional time from work. Plaintiff brought claims for negligence/wantonness and for negligent entrustment.

On April 9, 2025, the court granted defendant's motion for summary judgment as to the wantonness claim. It stated that there was no evidence of Hadaway's state of mind consistent with reckless or conscious disregard of others. His act of turning left into oncoming traffic was not so inherently reckless to impute a depravity consistent with disregard of instincts of safety and self-preservation. The court also granted summary judgment to defendant on the negligent entrustment claim, as plaintiff had conceded this claim.

The negligence claim went to trial. Defendants admitted liability but disputed causation and damages.

Nature Of Injury: Open fracture of left femur, bilateral femur fractures, 11 broken ribs, fractured eye socket, left femur neck fracture, left patellar fracture, lacerations to liver, kidney, spleen, broken left wrist, significant loss of blood, traumatic brain injury, and other personal injuries; lost wages; pain and suffering.

Expert Witnesses:

Plaintiff's:
Santo Steven BiFulco, M.D., Physical Medicine and Rehabilitation, Tampa, FL
Jeffrey David Lewine, Ph.D., Neuroscience, Albuquerque, NM
Travis Snyder, D.O., Radiology, Las Vegas, NV

Defendant's:
Gary M. Johnson, M.S., P.E., Accident Reconstruction, Birmingham, AL
Joshua Shimony, M.D., Ph.D., Radiology, St. Louis, MO

Verdict: ***$8,000,000 for Plaintiff on June 12, 2025***.

Judgment: $8,000,000 for Plaintiff on June 12, 2025. ■

TUSCALOOSA COUNTY

(30) COLETTE PETERS vs. DESIGN 1 GROUP, LLC and TAYLOR WILBANKS (Circuit Court of Tuscaloosa County, Alabama)

County/Docket #/Judge: Tuscaloosa / 63-CV-2022-900290 / Daniel F. Pruett

Plaintiff(s) Attorney(s): James E. Fleenor, Jr., of Fleenor Law, LLC, Tuscaloosa, AL

Defendant(s) Attorney(s): n/a

Age/Sex/Occupation Of Plaintiff: n/a / F / n/a

Cause Of Injury: ***Deceptive Trade Practices/Breach of Contract/Fraud/Homeowner Claims That Solar Energy Salesperson Deceived Her***. On March 30, 2022, plaintiff Colette Peters filed a complaint against defendants Design 1 Group, LLC, and Taylor Wilbanks. She alleged on April 2, 2021, Wilbanks, on behalf of Design 1, a Virginia company, made a sales call at plaintiff's home in Northport to solicit her to purchase solar panels and related items. Wilbanks told plaintiff that Design 1 would provide and install a complete solar energy system in her home and that the system would reduce plaintiff's current electrical bill by 85%, thereby paying for itself over a 20-year period. To bolster his credibility, Wilbanks showed plaintiff reviews and accreditations from what he said was the Better Business Bureau's website. He also told her that plaintiff would receive $500 for any referral she provided to Design 1, regardless of whether the referral led to a sale. Wilbanks offered a discount of $2,000 if plaintiff signed an agreement that day. Relying on these representations, plaintiff agreed to buy the solar energy system for $60,800. Wilbanks hurriedly showed plaintiff documents on his iPad and provided incomplete and inaccurate descriptions of the documents as plaintiff signed them electronically. Subsequently, plaintiff discovered that the energy savings were minimal. Moreover, attic insulation was critical to the system, but Design refused to provide it in the area deemed critical by Wilbanks. Plaintiff also learned that the website she was shown was fake. Finally, when plaintiff attempted to submit referrals, Wilbanks told her that he had misinformed her about the referral fee. Plaintiff brought claims for violations of the Alabama

Deceptive Trade Practices Act, breach of contract, fraud, and negligent hiring, training, and supervision.

Defendants, who were initially represented by counsel, denied the allegations. Counsel later withdrew from the case.

On Nov. 21, 2023, plaintiff filed a motion for default judgment against Design 1, which had failed to obtain new counsel. She sought a trial on damages.

Nature Of Injury: Economic loss.

Expert Witnesses: n/a

Judgment: $182,400 for Plaintiff on Aug. 30, 2024 (actual damages of $60,800 trebled under Alabama Deceptive Trade Practices Act).

Editor's Note: Mail to Design 1 Group was returned to the court. ■

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For The Plaintiff:

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For The Defendant:

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Amount Of Verdict/Settlement (give breakdown for each Defendant to each Plaintiff; if reduced by comparative negligence, state the percentages):

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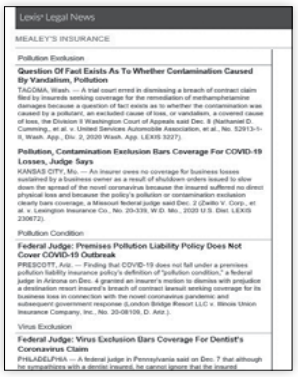
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MEALEY'S INSURANCE

Pollution Exclusion

Question Of Fact Exists As To Whether Contamination Caused By Vandalism, Pollution

TACOMA, Wash. — A trial court erred in dismissing a breach of contract claim filed by insureds seeking coverage for the remediation of methamphetamine damages because a question of fact exists as to whether the contamination was caused by a pollutant, an excluded cause of loss, or vandalism, a covered cause of loss, the Division II Washington Court of Appeals said Dec. 9 (Nathaniel D. Cumming, , et al. v. United Services Automobile Association, et al., No. 52913-1-II, Wash. App., Div. 2, 2020 Wash. App. LEXIS 3227).

Pollution, Contamination Exclusion Bars Coverage For COVID-19 Losses, Judge Says

KANSAS CITY, Mo. — An insurer owes no coverage for business losses sustained by a business owner as a result of shutdown orders issued to slow down the spread of the novel coronavirus because the insured suffered no direct physical loss and because the policy's pollution or contamination exclusion clearly bars coverage, a Missouri federal judge said Dec. 2 (Zwillo V. Corp., et al. v. Lexington Insurance Co., No. 20-339, W.D. Mo., 2020 U.S. Dist. LEXIS 230672).

Pollution Condition

Federal Judge: Premises Pollution Liability Policy Does Not Cover COVID-19 Outbreak

PRESCOTT, Ariz. — Finding that COVID-19 does not fall under a premises pollution liability insurance policy's definition of "pollution condition," a federal judge in Arizona on Dec. 4 granted an insurer's motion to dismiss with prejudice a destination resort insured's breach of contract lawsuit seeking coverage for its business loss in connection with the novel coronavirus pandemic and subsequent government response (London Bridge Resort LLC v. Illinois Union Insurance Company, Inc., No. 20-08106, D. Ariz.).

Virus Exclusion

Federal Judge: Virus Exclusion Bars Coverage For Dentist's Coronavirus Claim

PHILADELPHIA — A federal judge in Pennsylvania said on Dec. 7 that although he sympathizes with a dentist insured, he cannot ignore that the insured

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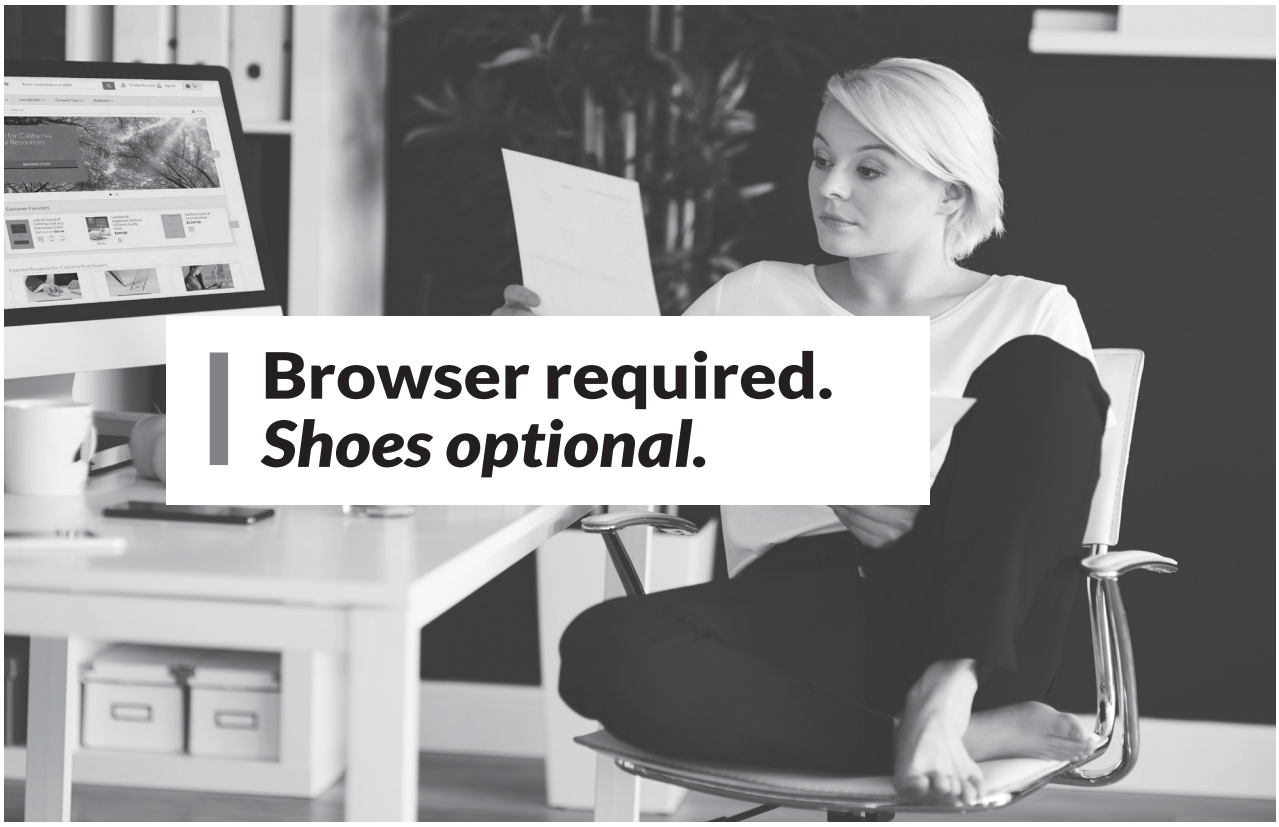

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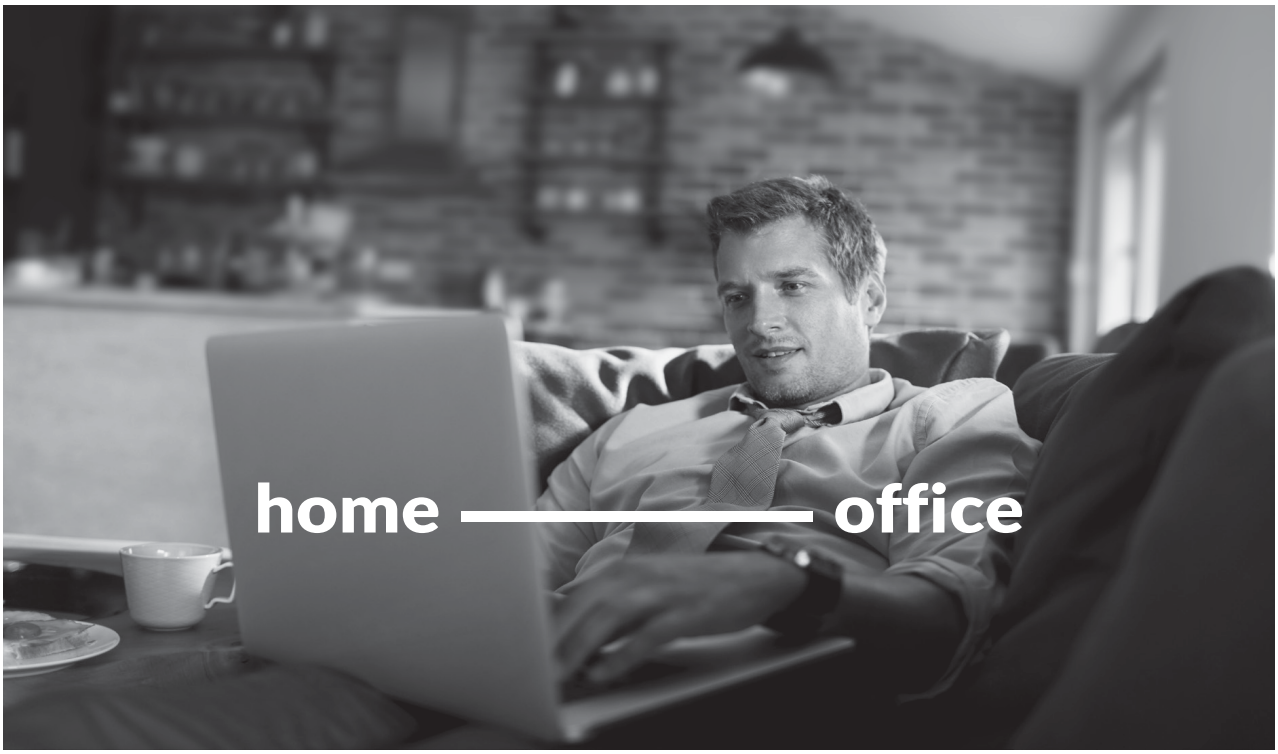

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