# The Louisiana Jury Verdict Reporter

The Most Current and Complete Summary of Louisiana Jury Verdicts

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## Civil Jury Verdicts

Timely coverage of civil jury verdicts in Louisiana including court, division, presiding judge, parties, case number, attorneys and results.

**Auto Negligence - The plaintiff, a highly-compensated offshore operator, suffered a disabling disc injury when rear-ended by a postal vehicle – the case was tried as a bench trial, the judge awarding the plaintiff $2.64 million including general damages of $400,000, the primary award including $1.642 million for lost earning capacity**

*Singleton v. USA*, 2:19-2684
Plaintiff: Willard P. Schieffler, Houma
Defense: Sandra Lee Sears and Peter M. Mansfield, *Assistant U.S. Attorneys*, New Orleans
Verdict: $2,640,636 for plaintiff (Bench verdict)
Federal: **New Orleans**
Judge: Carl Barbier
Date: 12-22-20

Lionel Singleton, then age 45, traveled on LA 24 in Houma on 3-30-17. Behind him in traffic was Donnelle Breaux who was driving a Jeep vehicle in her employment for the United States Post Office. Breaux couldn't stop in time and rear-ended Singleton. It was a moderate impact and pushed Singleton's vehicle into a third car in front of him.

Singleton had the immediate onset of neck and back pain. He then saw his family doctor and within six weeks he began treating with a chiropractor, Dr. Beau Porche. An MRI indicated an L4-5 disc injury.

Singleton was then referred to a pain management physician, Michael Haydel, as he continued to complain of persistent low-back pain. Hayden utilized epidural injections.

By January of 2018 Singleton was referred to a neurosurgeon, Dr. Deepak Awasthi, for what was now described as "shooting" pain from L4-5. Singleton then underwent a diskectomy at that level in August of 2018. However because of ongoing pain, Singleton has been restricted to light duty.

Singleton had earned $150,000-plus per year in his work as an offshore operator. Disabled from that work, he was able to find a land-based control room job. However that job was eliminated as a part of a pandemic-related reduction-in-force. There was proof that Singleton, with his limited status, will struggle to find high-paying work. His vocational damages were quantified by Stephanie Chalfin, Vocational Expert and Randolph Rice, Economist.

Beyond the disabling low-back injury, Singleton began to report radiating cervical pain 34 months after the crash. His medical proof linked that injury to the collision. He underwent a cervical surgery in February of 2020 and received some relief. The radiating low-back pain persists.

In this Federal Tort Claims Act lawsuit, Singleton sued the United States based on Breaux having rear-ended him. He sought his medical bills, future care, lost wages, lost earning capacity and general damages. It was the plaintiff's proof that the crash resulted in disabling injuries to both his cervical and lumbar spine.

The government conceded fault for the crash. It also conceded the L4-5

disc injury and the related care for that condition. However the defense of the case focused on three themes. The first came from an IME, Dr. Najeeb Thomas, Neurosurgery, (he confirmed the lumbar disc injury) but argued that the cervical disc injury was unrelated. The defense also diminished the claimed vocational damages and suggested there were plenty of work opportunities available to Singleton. The government did not have a vocational expert.

Finally the USA argued Breaux was traveling at just 15 mph and slowing down at the time of the impact. That relatively minor impact then was characterized as just causing Singleton's vehicle to "roll" into the next vehicle.

This case was tried as a bench trial before Judge Barbier on 10-14-20. He had his final order on 12-22-20. The court traced the proof and noted the lumbar disc injury was conceded. As to the cervical disc injury and related treatment, Judge Barbier noted the 34 month gap before symptoms began, that it had not "continuously manifested," and concluded it was unrelated to the collision.

The court then addressed damages. Singleton was awarded medicals of $140,727 and $250,000 for future care. His lost wages were $207,122 and he took $1,642,787 for lost earning capacity. Judge Barbier explained he reviewed "similar cases" and concluded $400,000 in general damages was appropriate. The bench verdict totaled $2,640,636 and was memorialized in the court's final judgment.

**Products Liability - The plaintiff linked a mesothelioma diagnosis to a four-year period in the 1960s when he worked as a longshoreman unloading asbestos – in this lawsuit the plaintiff targeted three stevedoring companies where he claimed employment – he also presented an alternative "take home" claim related to his exposure to his father's employment on the same docks – the jury rejected the claim related to his exposure, but found against one defendant on the "take home" claim and awarded substantial damages**

*Pete v. Ports America Gulfport et al,* 19-10545

Plaintiff: Gary DiMuzio and Michael K. Hibey, *Simmons Hanley Conroy,* Alton, IL and Lindsey Cheek, *The Cheek Law Firm,* New Orleans

Defense: Jacques P. DeGruy and Courtney Crowell, *Pusateri Johnston Guillot & Greenbaum,* New Orleans for Ports America

Lynn Luker and Bryan C. Reuter, *Stanley Reuter Ross Thornton & Alford,* New Orleans for James Flanagan

Robert E. Williams, IV, *Sulzer & Williams,* Covington, LA and Richard P. Salloum, *Franke & Salloum,* Gulfport, MS both for SSA Gulf

Verdict: $10,351,020 assessed against Ports America Gulfport on "Take Home" claim; Defense verdict for all defendants on negligence and strict liability

Parish: **Orleans**

Judge: Ethel S. Julien

Date: 11-4-20

Henry Pete, age 74 and of Houston, TX, received a mesothelioma diagnosis in 2019. It's been life-altering. The once active Pete (he's an Air Force veteran originally from New Orleans) is now limited by the disease. A grandfather to eight, he fancied himself as Uber Grandpa, spending his retirement ferrying around his grandchildren. He can't do that anymore. Pete further faces a grim road for the remainder of his life because of the diagnosis.

Mesothelioma is a particularized disease that is related exclusively to an asbestos exposure. How had Pete been exposed? From 1964 to 1968 he worked as a longshoreman in New Orleans and regularly unloaded asbestos products.

In this lawsuit Pete targeted several stevedoring companies where he had worked in that period. The case advanced to trial against three of those employers, James Flanagan/New Orleans Stevedoring, Ports America, the successor to Atlantic and Gulf and SSA Gulf. He also pursued and settled claims against two other employers, Cooper Smith Stevedoring and Safmarine.

The theme of Pete's case was that it was negligent to expose him to asbestos in his employment. As the case came to trial, he presented both negligence and strict liability counts against the three remaining defendants.

Pete also presented an alternative "take home" case against the defendants. This was predicated on his father's employment for the same defendants, Pete's exposure being related to his father's "take home" of the asbestos on his clothes. If Pete prevailed at trial, the jury could award him his incurred medicals of $551,020 (as stipulated) plus non-economic damages.

The defendants replied on several fronts. The first was to deny that Pete had been employed by them all those years ago. Moreover they denied having handled asbestos at all, the James Flanagan defendant replying

specifically that they generally just unloaded Columbian coffee. The defendants also contested causation and the "take home" claim.

This was the first jury trial to be conducted in Orleans Parish since the pandemic struck. The jurors wore masks and were socially distanced. The trial was lengthy and stretched over three weeks. The jury then deliberated for 2.5 hours to navigate the court's complex instructions.

The court's first instruction asked if Pete had been employed by any of the three defendants as well as the settled Cooper Stevedoring. The answer was "no" as to three defendants and "yes" only as to Cooper Stevedoring. The jury answered similarly on queries about (1) exposure and causation, (2) negligence, and (3) strict liability. That essentially exonerated the three defendants (James Flanagan, Ports America and SSA Gulf) on the primary exposure negligence and strict liability counts.

The jury then moved to the "take home" claim. It answered that Pete had a take home exposure from both Ports America and Cooper Stevedoring. It said "no" on this count regarding James Flanagan and SSA Gulf.

The court's instruction then took an odd diversion. While as to the three defendants and the settled Cooper Stevedoring, the instructions incorporated them all in a single shared charge. As to the settled Safmarine, there were separate inquiries on negligence, strict liability and the "take home" claim. The jury found Safmarine liable on all counts.

The jury then went to damages (predicated only the "take home" claim) and awarded Pete the medicals as stipulated. He took $2,000,000 for past suffering and $2.3 million for in the future. Physical disability was valued at $3,000,000 and he took $2.5 million for loss of enjoyment of life. The non-economic damages were $9.8 million, the raw verdict totaling $10,351,020.

While the verdict was returned on 11-4-20, more than two months later a final judgment has not been entered. The plaintiff has argued that the final judgment should be assessed against Ports America in the sum of $3,450,340, representing its virile share having accounted for the settlements with Safmarine and Cooper. Ports America has resisted that as it was exonerated on the only fault-based counts (negligence and strict liability), there was no basis to impose damages on the "take home" claim alone. The issue remains unresolved at the time of this report.

**Food Server Negligence - The plaintiff bit into a "Tender Crunchers" chicken nugget from Church's Chicken and struck a bone – it led to a dental injury that later required an extraction and implant – Church's Chicken denied its chicken product was contaminated with a bone and even if it was, the restaurant acted reasonably in its preparation**

*Bailey v. Church's Chicken*, 730822
Plaintiff: Craig S. Sossaman and David E. Wawrose, *Law Offices of Craig Sossaman*, Metairie
Defense: Peter J. Wanek and Kathryn T. Trew, *Wanek Kirsch Davies*, New Orleans
Verdict: Defense verdict on liability (Bench verdict)
Parish: **Jefferson**
Judge: Glenn Ansardi
Date: 12-8-20

George Bailey was a regular Church's Chicken (Airline Highway location) customer and on 9-7-12 he ordered a 20-piece order of chicken nuggets that is marketed as "Tender Crunchers." Bailey took his chicken and headed home. When he bit into one of the nuggets, he struck a bone. It cracked a tooth.

Bailey took the chicken back to the store to complain. An incident report was created. Thereafter Bailey treated for the injury to Tooth No. 20. That included an extraction and implant.

In this lawsuit Bailey sued Church's Chicken (a Liberty Mutual insured) and alleged negligence in serving him a boneless chicken nugget that was contaminated with a bone. In developing his damages, Bailey cited the painful incident and his subsequent dental care.

Church's Chicken defended that it receives its chicken (white breast) in a frozen form from a reputable

supplier. The meat is then physically manipulated and inspected by its cooks. That includes mashing and forming the nuggets. A cook (with the company for some 25 years) described the process and how it would be impossible for a bone to sneak through. In fact in his employment of Church's Chicken, he'd never seen a bone in a boneless nugget.

The defense also contested damages and cited that Bailey had a history of dental decay. Thus his dental treatment was related to that pre-existing condition, Church's Chicken also noting that Bailey didn't even seek treatment until five weeks later.

This case was tried as a bench trial before Judge Ansardi. The proof was introduced on 11-9-20. He had his final order and reasons for judgment a month later.

Judge Ansardi concluded that ultimately it didn't matter if there was a bone in the chicken or not. Why? He concluded that Church's Chicken, in inspecting and preparing the chicken nugget, had met the reasonably prudent restauranteur standard and Bailey had not carried his burden. A defense judgment memorialized the bench verdict.

**Auto Negligence - The plaintiff and her two minor children were injured in a disputed red light crash – a Baton Rouge jury awarded the plaintiff damages and assessed fault equally to the drivers**

*Chube et al v. Patton*, 662616
Plaintiff: Benjamin T. Lowe and Spencer H. Calahan, *Law Offices of Spencer Calahan*, Baton Rouge
Defense: Gregory P. Aycock, *Kinchen Walker Bienvenu Bargas Reed & Helm*, Baton Rouge
Verdict: $56,207 for Tarhonda; $7,529 for Chelsea; $7,002 for Gavin (all less 50% comparative fault)
Parish: **East Baton Rouge**
Judge: William A. Morvant
Date: 12-16-20

There was a disputed red light crash in Baton Rouge on 11-3-16. The plaintiff, Tarhonda Chube, traveled on Foster near its intersection with Hollywood Boulevard. She was in an older Dodge minivan. Her minor children (Chelsea and Gavin) were passengers in the van.

As Chube proceeded through the intersection, her minivan was broadsided by Lindsey Patton. Chube alleged that Patton (a Shelter Mutual insured) had run the light. Patton for her part believed that it was Chube who had run the light.

In this lawsuit Chube and her children sought damages from Patton. Chube has since treated for a herniated disc. The children both treated with a chiropractor for soft-tissue symptoms. Patton defended the case as described above that it was Chube who ran the light. Chube replied and noted she was broadsided in the intersection.

The jury had questions in this case. They asked: Can we see pictures of the wreck? What were the weather conditions? A map of the intersection? The location of the vehicles? The jury added to this list of questions, "Thank you!" It is not clear how or if the court answered.

The jury then returned a verdict and found both drivers at fault. It assessed that fault equally to those drivers. Then to damages Chube took $5,207 in medicals. Her pain and suffering was $30,000 and she took $20,000 for mental anguish. Her loss of enjoyment of life was $1,000. Chube's verdict totaled $56,207.

The jury continued and awarded Chelsea $2,000 for pain and suffering and the same sum for mental anguish. Her loss of enjoyment of life was $1,000. Her medicals were $2,529, the verdict totaling $7,529.

Finally Gavin was awarded the same sum for the same categories as Chelsea for non-economic damages. His medical bills were $2,002. The verdict totaled $7,002. At the time of this report no judgment had been entered. Presumably it will be for the plaintiffs less 50% comparative fault.

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Case Style _____

Jurisdiction _____ Case Number _____

Trial Judge _____ Date Verdict _____

Verdict _____

For plaintiff _____ (Name, City, Firm)

For defense _____ (Name, City, Firm)

Fact Summary _____

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Injury/Damages_____

Submitted by: _____

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**Medical Malpractice - An elderly patient (she was bedridden and non-verbal) fell from her hospital bed and sustained a comminuted shoulder fracture – her family sued the hospital and alleged negligence in failing to have her bed rails elevated – the hospital replied that the bed rails were in place and that it met the standard of care**

*Eggins v. St. Frances Cabrini Hospital*, 261736
Plaintiff: Eugene A. Ledet, *Brian Caubarreaux & Associates*, Alexandria
Defense: Brandon A. Sues and Sarah S. Couvillon, *Gold Weems Bruser Sues & Rundell*, Alexandria
Verdict: Defense verdict on liability (Bench verdict)
Parish: **Rapides**
Judge: Patricia E. Koch
Date: 12-9-20

Susie Eggins, age 83, was taken to the ER at St. Frances Cabrini Hospital in Alexandria on 2-27-15. She was

diagnosed with a UTI and admitted to the hospital. Eggins was described as being bedridden and non-verbal at this time. Her family explained she was essentially a quadriplegic. She was able to recognize and communicate non-verbally with friends and family.

On her sixth day in the hospital and just before seven in the morning, Eggins fell from her bed. She suffered a comminuted shoulder fracture. There was proof that Eggins suffered silently, unable to describe her pain. She died in June of 2017.

Her children (Willie and Jerry) presented this lawsuit against St. Frances. The alleged error was in failing to have the bed rails in place to prevent her from falling out of bed. The proof of this case from family members and friends who testified the bed rails were not in place.

The hospital defended with proof from its nurses that the bed rails were in place. It also called a family physician, Dr. Floyd Jones, from the Medical Review Panel who concluded the hospital met the standard of care. The hospital further noted that even when the bed rails are raised, it is possible (as likely happened here) for a patient to slip through.

As the damages were less than $50,000, the case was tried as a bench trial. The proof was heard on 10-1-20. Judge Koch ruled on 12-9-20.

The court concluded that there was no proof of a standard of care violation even if the bed rails were not up as Eggins could have fallen through them. She further explained that "tragically unexplained accidents occur." Her findings were memorialized in a consistent judgment.

**Insurance Coverage - A church made a claim for wind damage to the roof of its fellowship hall – the insurer denied the claim and cited a policy exclusion of a latent defect, i.e., the roof's problems were related to a construction defect – the case turned on the question of coverage, the trial judge finding for the insurer**

*Pilgrim Missionary Baptist Church v. Church Mutual Insurance*, 1:18-81
Plaintiff: Somer G. Brown, *Cox Cox Filo Camel & Wilson*, Lake Charles
Defense: Daniel A. Webb and Laken N. Davis, *Beahm & Green*, New Orleans
Verdict: Defense verdict on coverage question (Bench verdict)
Federal: **Alexandria**
Judge: Dee D. Drell
Date: 11-24-20

In September of 2017 the Pilgrim Missionary Baptist Church in Alexandria made a report of roof damage to its fellowship hall to its longtime insurer, Church Mutual Insurance. The rafters appeared rotten. Church Mutual adjusted the claim and sent a structural engineer.

The engineer, Tod Lewis, concluded the roof truss system had failed because of its poor design. He further concluded the structure was unsafe and not habitable. The only solution was to redo the entire roof structure.

A month after the report from Lewis, Church Mutual denied the claim. It cited that the failed design represented a latent defect that was excluded by the policy. Thereafter the church demolished the building at a cost of $76,000.

Pilgrim Missionary then filed suit and sought to enforce the policy. It argued the damage to the roof was caused by a covered wind event in August of 2016. It relied on an engineer expert, Mark Norman. The church also presented a bad faith count. The claimed damages included the demolition expense, loss of use, mental anguish, attorney fees and bad faith damages.

Church Mutual defended that the roof's failure, as noted above, was related to the poor underlying design and that wind had nothing to do with it. In fact there was proof the roof and structure were leaning before the alleged 2016 wind event.

The case was heard over two days as a bench trial before Judge Drell. She found for Church Mutual on the coverage question and concluded the initial claim report didn't even mention wind. She further was unimpressed with a "vague anecdote" that there had been a wind event. Morever as there was no coverage, there was no bad faith. A defense judgment was entered for Church Mutual.

**Boat Negligence - A 90-foot yacht sank while it was docked for repairs – at this trial the only question was the boat's value - the plaintiff thought $1.12 million, while the repair company that sank the boat thought $75,000 was more fair**

*O'Brien v. Southern Repair & Maintenance et al*, 789433
Plaintiff: G. Patrick Hand, Jr., *The Hand Law Firm*, Gretna
Defense: Kyle S. Moran and Arthur R. Kraatz, *Phelps Dunbar*, New Orleans for Southern Repair and National Speciality Insurance
Rowen F. Asprodites and Salvador J. Pusateri, *Pusateri Johnston Guillot & Greenbaum*, New Orleans for Underwriters at Lloyds of London (Excess insurer)
Verdict: $150,000 for plaintiff (Bench verdict)
Parish: **Jefferson**
Judge: Nancy A. Miller
Date: 12-10-20

Michael O'Brien commissioned the Sea Pal in 1991. It is a 90-foot pleasure yacht with a steel hull. The boat had seven bedrooms. The boat was a labor of love for O'Brien who employed a marine architect to design the boat. It had unique and custom features.

Moving forward to the summer of 2018, the Sea Pal was beginning to show wear. The steel hull was damaged and there were problems with wiring and insulation. The finishings, while nice in 1991, were now out-dated.

The Sea Pal was sent for repairs on 7-9-18 at Southern Repair and Maintenance. The company, insured by National Speciality Insurance, docked the boat at a maintenance dock on the Intercoastal Waterway in Belle Chasse. It was tied up to a larger boat. The Sea Pal would never sail again.

*The Sea Pal after it was raised*

Hurricane Michael struck the coast in October. A surge from the sea moved the boat to which the Sea Pal was attached – this caused the Sea Pal to list and ultimately sink. It was a complete loss.

O'Brien sued Southern Repair and alleged negligence in sinking the boat. Ultimately liability was resolved by summary judgment for the plaintiff. The only question to be resolved at trial was the fair market value of the boat. O'Brien had also sued an excess insurer, Underwriters at Lloyd's of London.

O'Brien relied on a marine surveyor, Ryan Uhlich, Metairie, who valued the vessel at $1.12 million. Southern Repair's valuation expert (Roy Newberry) thought it was worth perhaps $500,000, but with many needed repairs, the true value was just $75,000. A third expert, retained by Lloyd's of London, Martin Gee, thought it was a "subpar yacht" and $150,000 was a fair value.

The case was tried as a bench trial before Judge Miller. The court heard the proof on 12-4-10 and she had a written order six days later. The court noted that there were "wildly divergent" valuations from the experts. While she suspected the right buyer might pay a "significant price," she was bound by the evidence. She concluded Gee's valuation was most persuasive and landed upon a verdict for O'Brien in the sum of $150,000. A consistent judgment was entered.

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