Alabama Court of Civil Appeals Affirmed Summary Judgment in Vehicular Accident

Attorney: Mac Freeman

In a personal injury suit involving co-workers, the Plaintiff alleged that the Defendant driver was operating his vehicle in a wanton manner causing a t-bone collision and resulting in serious injuries for the Plaintiff – who was a passenger in the vehicle. The Plaintiff alleged and argued by virtue of darting across eight (8) lanes of traffic, the vehicle operator's conduct was nothing short of wanton.

Defendant argued that, at most, the driver was negligent and therefore the Plaintiff cannot recover based on the guest passenger statute. In addition, the Defendant argued that he, as driver, would be just as likely to be seriously injured in a t-bone type collision and would never knowingly and recklessly pull into oncoming traffic. As such, the defendant could not be guilty of wanton conduct.

The trial court granted summary judgment and dismissed all claims against the Defendant.

Plaintiff's appealed and the Alabama Court of Civil Appeals affirmed the trial court's decision upholding the judgment in favor of the Defendant driver.

Supreme Court Affirms Summary Judgment in Favor of Hospital

Attorneys Involved: William S. Haynes, L. Peyton Chapman, III, and Bethany L. Bolger

In a medical malpractice suit involving an infant, the Plaintiff alleged that the Hospital was negligent with regard to the nursing assessment performed on her newborn daughter to evaluate for a rare congenital anomaly. She alleged that the defect should have been discovered sooner, and that the child was damaged by having to undergo a more difficult corrective procedure as a result. The trial court granted summary judgment and dismissed all claims against the Hospital.

The Supreme Court of Alabama affirmed the trial court's decision, upholding the judgment in favor of the Hospital.

Ward, Bolger, and Dees Obtain Defense Verdict for Lawyer in Legal Malpractice Matter

Attorneys Involved: Robert C. Ward, Jr., Bethany L. Bolger, and Stephen P. Dees

This lawsuit was based upon a claim for legal malpractice stemming from the settlement received by Mr. Moore after the death of his son. Mr. Moore hired the insured and his firm to represent his interest in litigation on behalf of his son's estate. Mr. Moore was named the administrator of his son's

estate with the proper protocol being followed in the probate court. A settlement was reached. Mr. Moore sued the insured in a separate lawsuit alleging that he was misinformed of his rights to the settlement proceeds even though the insured was told of the existence of the granddaughter. The insured denied this claim.

Jury Defense Verdict in Favor of Perry County Trucking Company

Kent Garrett and Mac Freeman secured a jury defense verdict in favor of a trucking company in Perry County, Alabama. The case involved allegations of negligence and wantonness in the operation of a tractor trailer. The accident caused serious injuries. The Plaintiffs' attorneys asked the jury to return a verdict in their favor for $2.5 million dollars. The jury returned a verdict in favor of the Defendant trucking company.

Defense Verdict in Favor of Shelby County Physician

Attorneys involved:

Thomas H. Keene
William S. Haynes

After five days of trial, a Shelby County jury returned a defense verdict in favor of a local pain management physician. The suit alleged that as a result of the pain physician's care and treatment which involved the prescription of Hydrocodone, plaintiff's husband committed suicide. The defense maintained that the physician acted reasonably in providing pain management services. The defense also presented evidence that there was no causal connection between the defendant's pain management services and the patient's suicide. The defense also showed there was no scientific evidence associating Hydrocodone and suicidal ideation.

The defense case was supported by Dr. Robert Lansden, a pain management specialist in Birmingham, and Dr. Douglas Jacobs, a nationally known psychiatrist who specializes in suicide assessment and prevention. After the evidence was in, plaintiff's counsel suggested to the jury that they award between one and ten million dollars in wrongful death damages to the widow of the deceased. The jury deliberated less than twenty minutes before returning a defense verdict rejecting this claim.

Alabama Court of Civil Appeals Affirms Summary Judgment for The Anniston Star

Attorneys Involved: Dennis R. Bailey and Bethany L. Bolger

In Little v. Consolidated Publishing, a libel suit by a public official against *The Anniston Star*, the City Councilman

claimed the newspaper libeled him by publishing statements of another councilman that there was "buzz" in the community that the plaintiff had recommended a female contractor because of a personal relationship.

The newspaper had received summary judgment at the trial level. The Alabama Court of Civil Appeals had reversed the summary judgment in a 3-2 opinion. However, after a petition for rehearing was filed, the Court requested oral argument and, on May 13, 2011, withdrew the prior opinion and issued a 3-2 opinion *AFFIRMING* summary judgment for *The Anniston Star*.

Bailey to Argue Amicus Curiae In Clay Slagle v. Montgomery County Board of Education

On March 31, 2011, the Supreme Court of Alabama will hold oral argument in *Clay Slagle v. Montgomery County Board of Education*. Dennis Bailey, shareholder of Rushton Stakely, will argue amicus curiae on behalf of the Alabama Press Association in a case that will determine the weakness or strength of the Alabama Open Meetings Act for years to come. The trial court ruled that a school board could meet in small groups of less than a quorum in a serial fashion to deliberate important matters and avoid holding a public meeting. The Supreme Court will now consider this important issue of public interest.

Bailey and Bolger Obtain Summary Judgment

Dennis R. Bailey and Bethany L. Bolger obtain summary judgment for their client, Chiropractic Strategies Group, Inc., in the United State District Court for the Southern District of Alabama, Southern Division. The plaintiff alleged that Chiropractic Strategies Group, Inc. (CSG) willfully and maliciously subjected her to unlawful sexual harassment which affected the terms of her employment. She contended a chiropractor who formerly worked at CSG sexually harassed her. The next day she made her first and only complaint to CSG and resigned from her job. On March 3, 2011, the Court denied a motion for summary judgment filed by Kurtts and entered summary judgment for Chiropractic Strategies Group, Inc., as CSG was never given an opportunity to implement its policy against sexual harassment. The opinion correctly holds that an employer must be given notice and an opportunity to address sexual harassment claims before an employee resigns if the employee intends to assert claims for sexual harassment, discrimination, and retaliation.

Jackson Elected to the Board of Trustees of Samford University

J. Theodore Jackson, Jr. has been elected to a 3-year term on the Board of Trustees of Samford University. Samford University is classified as a national doctoral research

University located in Birmingham, Alabama. It is the largest private institution of higher learning in Alabama, with an enrollment of over 4,700 students. Samford is affiliated with Alabama Baptist State Convention. Samford offers 138 undergraduate majors, minors, and concentrations and graduate programs in business, divinity, law, education, arts and sciences, nursing and pharmacy. Samford was founded in 1841.

Wells Honored in Martindale-Hubbell Bar Register of Preeminent Women Lawyers

Martindale-Hubbell has selected Helen Crump Wells for inclusion in the inaugural *Martindale-Hubbell Bar Register of Preeminent Women Lawyers*. This honor is reserved for women lawyers who have achieved the highest possible rating in both legal ability and ethical standards and who have been designated by their colleagues as preeminent in their field. Less that 5% of women lawyers have achieved this top rating.

Mrs. Wells has a wide range of experience in corporate mergers and other transactions, securities issuance and disclosure, bank regulatory matters, corporate governance, and estate planning, and trust and estate administration. She is a Fellow of the American College of Trust and Estate Counsel, and she has been recognized by her peers in *The Best Lawyers of America*, *Super Lawyers*, and *Business Alabama* magazine. This recent recognition by Martindale-Hubbell puts her among the elite women of the legal industry.

Martindale-Hubbell has been a leading directory of lawyers since 1868. Today, Martindale-Hubbell provides ratings for

over one million lawyers.