

that moment and ran the red light at what Yvonne would later estimate was a speed of approximately 45 to 50 mph. This was significantly higher than the speed limit of 25 mph.

When Carter ran the red light, he collided with Spinks. The force of that impact caused Spinks, in turn, to collide with the Bouchers. Yvonne suffered a fracture of her dominant arm due to the crash, and David suffered an abdominal hernia. They both underwent corrective surgeries, but their respective medical expenses are unknown.

The Bouchers filed suit against Carter and his parents – step-father Jerry and mother Leigh – as well as against Spinks. The Bouchers blamed Carter for running the red light and thereby causing the crash, and they targeted his parents partly on a theory of negligent entrustment and partly on the ground that Jerry co-owned the vehicle Carter was driving.

The Bouchers also implicated Spinks's fault for her role in the crash. Plaintiffs alleged counts for negligence and wantonness against all defendants. If successful, plaintiffs sought both compensatory and punitive damages.

Spinks defended the case and denied any wrongdoing. The Kelly defendants also offered their own account of what happened. According to them, Carter had stopped at the intersection and looked to make sure the way was clear before proceeding. When he did proceed into the intersection, it was on a green light. Thus, the Kelly defendants disclaimed responsibility for causing the crash.

The court granted a defense motion for partial summary judgment on the issue of negligent entrustment. The case was tried for four days in Brewton. The court entered judgment as a matter of law

for Leigh on all claims against her, for Spinks on the wantonness claim, and for Jerry on the issue of punitive damages.

The jury deliberated on the remaining claims and returned a mixed verdict. First, the jury awarded zero damages to plaintiffs against Spinks. Next, the jury awarded compensatory damages of \$500,000 to Yvonne and \$15,000 to David against Carter and Jerry jointly. Finally, the jury awarded punitive damages of \$25,000 to Yvonne and \$5,000 to David solely against Carter.

That brought the award to a combined total of \$545,000. The court entered a judgment for that amount allocated as indicated, plus a defense judgment for Spinks, plus costs taxed against Carter and Jerry. The judgment has been satisfied.

Case Documents:

[The Jury Verdict/Judgment](#)

Underinsured Motorist - Plaintiff sustained a fractured sternum and "traumatic macular whiplash" to his eyes in a failure-to-yield crash with an underinsured driver; plaintiff won a substantial award that was reduced to \$30,000 after the application of set-offs

Ferris v. State Farm, 17-901137

Plaintiff: Michael K. Timberlake and Christopher M. Wooten, *Siniard*

Timberlake & League, P.C., Huntsville

Defense: Ronald J. Gault and

Amanda G. Kisor, *Gaines Gault*

Hendrix, P.C., Birmingham

Verdict: \$275,000 for plaintiff

Circuit: **Madison**, 5-8-19

Judge: Alison S. Austin

On 7-6-15, Gary Ferris was driving on Hobbs Road near the intersection with Bell Road in Madison County.

At the same time, Hudson Jordan was also driving in the same area. At the intersection of the two roadways, Jordan failed to yield the right-of-

way at a traffic signal. An instant later, he collided with Ferris.

Ferris suffered a fractured sternum and an aggravation of a pre-existing injury to his right arm and both shoulders. He did not undergo surgery for those injuries, but he did follow a course of physical therapy and had two pain injections.

Interestingly, Ferris suffered an additional crash-related injury described as "traumatic macular whiplash" to his eyes. This resulted in a loss in his vision and a permanent decrease in his contrast sensitivity and color saturation.

However, Ferris's post-crash corrected vision was still 20/20. His medical expenses are not known.

Ferris filed suit against Jordan and blamed him for failing to yield the right-of-way and thereby causing the crash. Ferris also made an underinsured motorist claim against his own insurer, State Farm. Initially, State Farm opted out of the case.

Jordan ultimately settled and paid his \$200,000 policy limits. At that point, State Farm opted back into the case, and the litigation proceeded solely on the underinsured motorist claim. Ferris's available UIM coverage totaled \$175,000.

State Farm stipulated that Jordan was at fault for the crash. Instead, the insurer diminished Ferris's claimed injuries and also claimed entitlement to set-offs totaling \$245,000. That figure was comprised of Jordan's payment of his \$200,000 policy limits, plus \$25,000 State Farm had paid toward Ferris's medical expenses, plus State Farm's advance of its last settlement offer of \$20,000.

The case was tried for three days in Huntsville. Ferris explained to the jury that he was making no claim for his medical expenses or his lost wages. For that reason, his medical expenses were not admitted into evidence.

The jury returned a verdict for Ferris and awarded him damages of \$275,000. The court granted a defense motion for set-offs totaling \$245,000, and the court entered a final judgment for Ferris in the amount of \$30,000.

Case Documents:

[The Jury Verdict](#)

[Defense Motion to Alter Judgment](#)

Auto Negligence - Plaintiff suffered soft-tissue injuries and a fracture in his back in a rear-end crash; plaintiff claimed the crash happened because defendant was distracted with applying makeup while she was driving

Young v. Roberts, 17-900264

Plaintiff: Charline Whyte, *Rubio Law Firm, P.C.*, Birmingham; and Jason L. Yearout, *Yearout & Traylor, P.C.*, Birmingham

Defense: Paul A. Miller and Garrett C. Miller, *Miller Christie & Kinney, P.C.*, Birmingham

Verdict: \$15,000 for plaintiff

Circuit: **Chilton**, 2-6-19

Judge: Ben A. Fuller

In the morning of 2-25-16, Anthony Young was driving a 2010 Kia Forte as he proceeded north on I-65 near Alabaster. Behind him and traveling in the same direction was a 2001 Honda Accord being driven by Miranda Roberts at about 20 mph.

The road was wet that day, and the stop and go traffic was heavy. At a point near exit 234, Young stopped momentarily in traffic. He looked in his rearview mirror and observed Roberts applying makeup as her vehicle approached him.

When Roberts realized Young had stopped, she tried to brake. However, she was unable to stop in time. An instant later, she rear-ended him. Young suffered soft-tissue injuries to his neck, back, and left shoulder due to the crash. He also sustained a lumbar transverse

process fracture in his back. The record does not reveal the amount of his medical expenses.

Young filed suit against Roberts and blamed her for allowing herself to be distracted with applying makeup while driving and thereby crashing into him. Young alleged counts for both negligence and wantonness. If successful, he sought both compensatory and punitive damages.

The court granted partial summary judgment in favor of Roberts on the wantonness claim. She defended the remaining negligence claim and minimized Young's claimed damages.

The case was tried in Clanton. The jury returned a verdict for Young and awarded him damages of \$15,000. The court entered a judgment for that amount.

Auto Negligence - Mother and daughter plaintiffs were injured in a crash in Birmingham; plaintiffs won at trial but were each awarded less than their medical expenses

Agee, et al. v. Gillock, 17-900896

Plaintiff: Frank S. Buck, J. Brooks Leach, Rachel C. Buck, and Lindsay A. Nadeau, *Frank S. Buck, P.C.*, Birmingham

Defense: Joshua Beard, *Varner & Associates*, Birmingham

Verdict: \$8,100 for plaintiffs (allocated \$3,100 to Agee and \$5,000 to Thomas)

Circuit: **Jefferson**, 11-29-18

Judge: Donald E. Blankenship

On 10-23-15, Claudia Agee was driving a 2011 Honda Accord EX-L on Lomb Avenue in Birmingham. Agee's mother, Marie Thomas, was riding with her as a passenger. At the same time, David Gillock was driving on Lomb Avenue in a 2013 Kia Soul.

At a point near the intersection of 10th Street SW and Woodland

Avenue, Gillock attempted to make a left turn. He would later explain that he checked to make sure there was no oncoming traffic before he began his turn. Once he did begin his turn, however, he collided with the passenger side of Agee's vehicle.

The record does not reveal the nature of Agee's or Thomas's injuries. However, it is known that Agee's medical expenses came to \$4,294, while Thomas's medical expenses totaled \$5,777.

Agee and Thomas filed suit against Gillock and blamed him for causing the crash. He defended the case and minimized plaintiffs' claimed injuries.

The case was tried for three days in Birmingham. The jury returned a verdict for plaintiffs and awarded damages of \$3,100 to Agee and \$5,000 to Thomas. That brought the award to a combined total of \$8,100. The court entered a judgment that reflected the verdict.

Historic Alabama Jury Verdicts

An occasional feature looking at verdicts that by modern standards are practically ancient. In this issue we look at two jury trials from 1960.

Tatham v. Alabama Power Federal Court - Jasper Tried January 1960

The plaintiff, Marshall Tatham, was working on the construction of the Lewis Smith Dam (which later created the Lewis Smith Lake) in July of 1959. He was electrocuted when he came in contact with a long hanging electrical wire installed by Alabama Power. A piece of machinery Tatham was operating struck the line.

Tatham's estate, representing his three minor children, sued Alabama Power and alleged negligence