

The case was tried for two days in Bay Minette. Oddly, Peterson remained as a named co-defendant despite the earlier settlement. In any event, the jury returned a verdict for York and awarded him damages of \$250,000.

The court entered a judgment for that amount jointly and severally against Peterson and Coastal Alabama. Four days later the court entered an order of partial release from the judgment as regards Peterson. The judgment remains in effect as regards Coastal Alabama.

Case Documents:

[Final Judgment/Jury Verdict](#)

Auto Negligence - Plaintiff complained of both a soft-tissue back injury and an injury to his right middle finger that he attributed to a rear-end crash that took place in bumper to bumper rush hour traffic on an interstate; defendant argued plaintiff's claimed injuries were unrelated to the crash

Gary v. Hubbert, 21-903530

Plaintiff: Mike Bowling, Victoria Dye, and Jake Jondle, *Morgan & Morgan Birmingham, PLLC.*, Birmingham

Defense: Amanda Graham, *Gaines Gault Hendrix, P.C.*, Birmingham

Verdict: Defense verdict

Circuit: **Jefferson**, 3-6-24

Judge: Jim Hughey, III

During rush hour in the early evening of 12-5-19, Kelvin Gary was driving a 2015 Buick Lacrosse as he traveled north on I-459 in Jefferson County. Gary's daughter was driving a second vehicle directly in front of him. Finally, immediately behind Gary was a vehicle being driven by Jamie Hubbert. Traffic was bumper to bumper.

According to Gary, he had been traveling in the far left-hand lane for some time until he slowed for traffic at a point near the intersection of

Nichole Drive and Millstone Road. An instant later Hubbert rear-ended him. The impact pushed Gary into the rear of his daughter's vehicle.

At the moment of impact, Gary's right hand struck his steering wheel, which caused his middle finger to bend all the way forward into his palm. He then instinctively pulled his finger back to its normal position.

Gary initially sought medical treatment some two weeks after the crash. At that time he complained about pain in his lower back.

Approximately two months later a hand doctor diagnosed him with a disruption of the sagittal band (i.e., one of the tendons) of his finger.

Gary attributed both his back pain and his finger injury to the crash. He underwent a surgical repair of his hand injury, and his medical expenses came to \$6,993.

In this lawsuit, Gary targeted Hubbert and blamed her for crashing into him. His theory focused on the argument that Hubbert had violated Alabama law by failing to allow sufficient distance between her vehicle and Gary's vehicle.

Hubbert pointed out that the traffic had been bumper to bumper, and so none of the drivers that day were following the law about maintaining a proper distance between vehicles. Thus, Hubbert admitted she had violated the law.

Based on that admission, the court granted Gary a judgment as a matter of law on the issue of liability. The litigation proceeded thereafter solely on the issue of damages. Hubbert defended the case on that basis and minimized Gary's claimed injuries.

In particular, Hubbert noted that Gary's medical records in the months prior to the crash indicated he had made complaints of back pain.

Furthermore, medical records prior to Gary's diagnosis of the sagittal band injury indicated that all his tendons were functioning properly.

In light of these records, Hubbert argued that Gary's injuries were pre-existing or unrelated to the crash.

The case was tried for three days in Birmingham. Gary asked the jury for an award of between \$600,000 and \$1,100,000. The jury deliberated for approximately three hours solely on the issue of damages before returning a verdict for Hubbert, and Gary took nothing. The court entered a defense judgment.

Case Documents:

[Final Judgment](#)

Notable Mississippi Verdict

Horn Negligence - An asphalt paver on the job suffered a bilateral auditory injury and permanent hearing loss when a trucker who was leaving the worksite blared his special train horn (it emits a 145 dB sound that is akin to a jet engine) for some 10 seconds - the jury in this case found the defendant negligent in blowing the loud horn and awarded the plaintiff \$1.5 million for his pain and suffering

Kelly v. Garland, 21-85

Plaintiff: Rocky Wilkins, William A. Graves and John A. Waits, *Morgan & Morgan*, Jackson, MS

Defense: Mason S. Montgomery and Jay M. Atkins, *McAngus Goudelock & Courie*, Oxford, MS

Verdict: \$1,787,597 for plaintiff

Court: **Jackson, Mississippi**

Hinds Circuit Court

Judge: Winston L. Kidd

Date: 3-29-24

Robert Kelly has worked for more than 20 years as a commercial paver. He was doing just that on 5-4-20 at a worksite laying asphalt for his employer (Adcamp) in Florence, MS. At the same time a trucker, Jerry Garland (he was an independent contractor) working on the site also for Adcamp, came upon Kelly and his work. Garland believed that