

**Auto Negligence - Plaintiff claimed to have suffered soft-tissue injuries in a rear-end crash that happened when plaintiff pulled out in front of defendant; defendant denied fault and claimed he tried to stop but slid on wet pavement**

*Shakes v. Parrish*, 15-903296

Plaintiff: John David Lawrence, *Farris Riley & Pitt, LLP.*, Birmingham  
 Defense: Peter M. Wolter, *Varner & Associates*, Birmingham

Verdict: \$70,000 for plaintiff

Circuit: **Jefferson**, 4-18-19

Judge: Robert S. Vance

In the morning of 12-16-14, Timothy Parrish, an Allstate insured, was on his way to work at his job for the City of Vestavia Hills. He was driving north in the left lane of Hwy 31 at approximately 35 mph as he approached the Days Inn on his right. It had rained the night before, and the road was still wet.

According to Parrish, a vehicle being driven by Michael Shakes emerged from the entrance to the Days Inn and pulled into the left lane in front of him. Shakes then immediately slowed to enter the median but didn't make it all the way. The rear of Shakes's vehicle remained in the northbound lane of Hwy 31.

Parrish claims he applied his brakes, but his vehicle slid on the wet pavement. In the next instant, Parrish's left front bumper hit Shakes's left rear bumper. Shakes suffered soft-tissue injuries in the crash and later followed a course of physical therapy. His medical expenses totaled \$17,677.

Shakes filed suit against Parrish and blamed him for not stopping in time and thereby causing the crash. Shakes also made an uninsured/underinsured motorist claim against his own insurer, State Farm Insurance.

State Farm opted out of the case.

The litigation proceeded on the claim against Parrish. He admitted a crash had occurred, but he defended the case and denied having caused the crash. Parrish also minimized Shakes's claimed injuries.

The case was tried in Birmingham. As it happened, Parrish had died of unrelated causes, and there apparently hadn't been time to open an estate. On the day of trial, therefore, his counsel asked the court to appoint an administrator ad litem.

The court granted the motion and appointed Ross Kinder to serve in that role. The case proceeded to trial on that basis. Although the verdict form was not in the record at the time the AJVR reviewed it, we have learned from other sources that the verdict was for Shakes in the amount of \$70,000.

The court entered a judgment for that amount and also awarded Kinder a fee of \$1,800 for his services as administrator ad litem. The judgment has been satisfied.

**Subrogation - A municipality's insurer paid a claim for damage to a municipal vehicle that was caused by a motor vehicle collision; the insurer then pursued a subrogation claim against the tortfeasor to recover for the loss**

*Alabama Mun. Ins. Corp. v. Smith*, 18-900611

Plaintiff: Scott M. Speagle, *Webster Henry Bradwell Cohan Speagle & DeShazo, P.C.*, Montgomery

Defense: Andrew M. Hickman, *Varner & Associates*, Birmingham

Verdict: \$11,013 for plaintiff

Circuit: **Baldwin**, 3-18-19

Judge: C. Joseph Norton

On 1-29-18, a vehicle being driven by Matthew Smith collided with a 2015 Ford F350 pickup truck owned by the City of Robertsedale. The record provides no details on where or how the crash happened.

The City of Robertsedale made a claim for the property damage with its insurer, Alabama Municipal Insurance Corporation. The insurer paid the City of Robertsedale \$10,513 on the claim. Additionally, the City of Robertsedale paid a deductible of \$500.

Alabama Municipal Insurance Corporation filed suit against Smith on a subrogation claim to recover for the loss arising out of the crash. If successful, Alabama Municipal Insurance Corporation sought damages totaling \$11,013. Smith defended the case and minimized the claimed damages.

The case was tried in a single day in Bay Minette. The jury returned a verdict for plaintiff and awarded damages of \$11,013 – i.e., the exact amount of damages plaintiff requested. The court entered a judgment for that amount.

**Auto Negligence - Plaintiff claimed to have suffered an ACL tear in his right knee that he attributed to a rear-end crash; defendant argued the impact was too minor to have caused the claimed injury**

*Hicks v. Alden*, 15-901188

Plaintiff: Monica H. Grecu, *Gibbs & Sellers, P.C.*, Demopolis

Defense: Ronald J. Gault and Amanda G. Kiser, *Gaines Gault Hendrix, P.C.*, Birmingham

Verdict: Defense verdict

Circuit: **Tuscaloosa**, 8-13-19

Judge: James H. Roberts, Jr.

In the evening of 4-6-14, Jamille Hicks was driving on 15<sup>th</sup> Street in Tuscaloosa. Behind him and traveling in the same direction was a vehicle being driven by Michael Alden. At a point near the intersection of Lake Avenue and 2<sup>nd</sup> Court East, Alden rear-ended Hicks.

Hicks complained at the scene only of pain in his back and tailbone.

He declined ambulance transport and later presented to the ER on his own. It was not until later that he claimed the crash had caused his right knee to jam into his dashboard, causing an ACL tear.

Hicks underwent a surgical repair of his knee and followed a course of physical therapy. His medical expenses totaled \$54,104. The majority of that amount was paid by a Good Samaritan charity care program. However, Hicks's insurer, Alfa Insurance, also paid \$1,941 toward his medical expenses.

Hicks filed suit against Alden and blamed him for causing the crash. According to Hicks, he had stopped because traffic was backed up due to a local Wendy's drive-thru. Hicks claims he had been stopped for approximately five minutes when Alden crashed into him.

In addition to his claim against Alden, Hicks also made an uninsured/underinsured motorist claim against Alfa Insurance. Alfa later opted out of the case, and the litigation proceeded thereafter solely on the claim against Alden.

Alden defended the case and offered his own account of how the crash happened. According to him, it had been raining heavily that night, and the road was wet. He was following Hicks fairly closely when Hicks slowed down. Alden followed suit and also slowed down, but then Hicks suddenly stopped altogether.

Alden slammed on his brakes and tried to stop, but he slid on the wet pavement. As a result, he bumped into the rear of Hicks's vehicle at low speed. Alden argued the impact was too minor to have caused Hicks's ACL tear, and he pointed to Hicks's failure to complain about knee pain either at the scene or later at the hospital. Thus, Alden argued Hicks's knee injury was not caused by the crash.

The case was tried for two days in

Tuscaloosa. The jury was informed that Hicks's medical expenses had been paid by a charity and that Hicks would have to reimburse that charity if he should be awarded any damages. However, the jury was also told Hicks would not have to pay any reimbursement if he was not awarded damages.

The jury deliberated the case for just over one and a half hours before returning a verdict for Alden. The court entered a defense judgment.

**Underinsured Motorist - Plaintiff was awarded damages that far exceeded her available UIM coverage for a traumatic brain injury she sustained in a crash with an allegedly intoxicated driver who was killed while trying to flee the scene of the crash**

*Ogletree v. Allstate Insurance*,  
17-901316

Plaintiff: Brandon T. Bishop,  
*Shunnarah Injury Lawyers, P.C.*,  
Birmingham

Defense: Steven R. Colclough, *Varner & Associates*, Birmingham

Verdict: \$140,000 for plaintiff (comprised of \$80,000 in compensatory damages and \$60,000 in punitive damages)

Circuit: **Jefferson**, 5-2-19

Judge: Robert S. Vance

In the evening of 4-4-15, Benjamin Ogletree was at the wheel of a 1993 Ford F150 pickup truck as he traveled south on I-65 in rural Jefferson County. Ogletree's wife, Kaitlin Ogletree, was riding with him as a passenger, as was their minor son, Jaxton Ogletree.

At the same time, a 2003 Dodge Durango owned by Martha Rodriquez but being driven by Justin Bice approached the Ogletrees from behind. Bice was intoxicated, speeding, and possibly distracted. An instant later, he rear-ended the Ogletrees.

Immediately following the crash, Bice got out of his vehicle and tried to flee. In doing so, he was hit by another vehicle and killed. Kaitlin and Jaxton had both suffered injuries to their heads, necks, and backs. Additionally, Kaitlin suffered a traumatic brain injury that has left her with cognitive deficits. Her medical expenses came to approximately \$5,000.

Kaitlin and Jaxton filed suit against Bice's estate and blamed Bice for driving recklessly and causing the crash. If successful, plaintiffs sought both compensatory and punitive damages. Kaitlin also claimed lost income of \$9,019 and lost earning capacity inasmuch as she had lost her job due to her cognitive deficits.

Plaintiffs also named Rodriquez as a co-defendant on a claim for negligent entrustment. Finally, plaintiffs made an underinsured motorist claim against their own insurer, Allstate Insurance. Plaintiffs' available UIM coverage with Allstate was 50/100.

Plaintiffs later settled Jaxton's claims with Bice's estate for Bice's policy limits of \$50,000. Jaxton then dismissed all of his claims. Kaitlin also dismissed all of her claims against Bice's estate and Rodriquez. The litigation continued solely on Kaitlin's UIM claim against Allstate. The insurer defended the case and claimed that Kaitlin was exaggerating her symptoms and that her brain injury was pre-existing.

The case was tried for two days in Birmingham. The jury returned a verdict for Kaitlin and awarded her compensatory damages of \$80,000. To that amount was added another \$60,000 in punitive damages. That brought the award to a combined total of \$140,000.

The court applied an offset to account for the \$50,000 settlement with Brice's estate and entered a