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Medical Malpractice Defense Verdict - Oxford

Plaintiff was 27 weeks pregnant in March of 2019. She had severe abdominal pain and her mother drove her to the ER at Baptist Hospital in Oxford, Mississippi. Her treating OBGYN, Ronald Smith, was off that day but his partner, Dr. Samuel Cole, was on call.

Plaintiff arrived at the ER at 11:42 a.m. and was evaluated by hospital nurses. She reported pain as a 10 out of 10. Her vital signs were mostly normal. The nurses did fetal tracing on the baby's condition. There would be a later dispute whether tracing was alarming. In any event, Plaintiff rested at the hospital for a short time and took a nap. The nurses performed a vaginal exam which was normal. There was no bleeding. Dr. Cole was contacted about Plaintiff. He prescribed her Phenergan for pain and Plaintiff was released at 2:55 p.m. Cole did not see Plaintiff in person nor was an ultrasound performed.

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Following the discharge from the hospital, Plaintiff returned to her mother's home to rest. At 7:00 p.m. that night, Plaintiff felt a sharp pain in her abdomen and had a gush of blood from her vagina. Her mother drove her back to Baptist at 8:27 p.m. Upon her arrival at the hospital, the medical team quickly confirmed fetal demise. A c-section was performed later that night to remove the deceased baby and placenta. Plaintiff subsequently developed a DVT complication and was hospitalized for 11 days.

In this lawsuit, Plaintiff sued Dr. Cole and the hospital. She was critical of the hospital nurses for failing to appreciate alarming fetal tracing and not getting a complete clinical picture when it was argued she had classic signs of placental abruption. She made a personal injury claim that the hospital's use of a tourniquet contributed to her injury. The nursing expert for Plaintiff was Ellen Hahn, RN, Port St. Lucie, FL. The hospital denied fault and was prepared to call Dr. Thomas Stovall, OBGYN of Memphis, at trial. He believed the nurses met the standard of care and placental abruption is very rare in a patient with Plaintiff's age and history. Stovall believed the placental abruption occurred in the evening and was a sudden event that could not be predicted or prevented. Plaintiff further alleged error by Dr. Cole. Her OBGYN expert, Dr. Joseph McCaffrey, OBGYN, Park Ridge, IL, believed it was essential that Plaintiff should have been seen by a physician. If Dr. Cole had evaluated Plaintiff, it was more likely than not he would have appreciated the placental abruption crisis and intervened to save the baby.

Plaintiff presented both a wrongful death claim for her daughter, as well as her own personal injury related to the DVT complication. Plaintiff's expert on damages was Bill Brandt, Bainbridge Island, WA, who quantified the daughter's future lost earnings based on a variety of scenarios depending on the level of education the girl may have attained. Dr. Cole's experts included Dr. Michelle Owens, Maternal Fetal Medicine, Jackson, and Dr. Halit Pinar, Pediatric Pathology, Providence, RI. Owens explained there were no signs of a placental abruption at the first hospital visit as Plaintiff did not have any vaginal bleeding. She noted an ultrasound would not have mattered as it is not sensitive enough to be a diagnostic tool. Dr. Cole indicated if he had seen Plaintiff in person and in light of her clinical picture and fetal tracing, he would have made the same decision to discharge her.

Pinar developed causation testimony that Plaintiff had an acute and massive abruption and related hemorrhage that evening. Moreover, there was no abruption underway while Plaintiff was at the hospital. Pinar explained even if Plaintiff was at the hospital and being examined, the placental abruption was so sudden and devastating, there would not have been time to arrange a medical team for a c-section quickly enough to save the baby.

Plaintiff rebutted Pinar's testimony with a pathology expert, Dr. Terry Morgan, Portland, OR. Morgan discussed the timing of the abruption and believed it was underway earlier in the morning. Thus with prompt intervention, the baby could have been safely delivered. He also explained the gush of blood at 7:00 p.m. and how it was related to an earlier abruption, due to the the release of congealed blood from an earlier hematoma.

As the trial approached, Baptist moved for summary judgment. It argued the nurses could not be held to account when Dr. Cole testified he would have discharged Plaintiff that afternoon which broke the causation chain as to the hospital. Judge Luther denied the motion. The hospital moved to reconsider the summary judgment order in light of the case of *United Energy v. Miller*, handed down by the Mississippi Supreme Court in April, 2025.

Judge Luther ultimately reversed himself a few weeks before trial and granted summary judgment to the hospital on both wrongful death and personal injury, except on Plaintiff's personal injury as to the tourniquet issue. The Defendants jointly then moved the court to sever Plaintiff's personal injury claim against the hospital. Judge Luther granted that motion and its remains to be set for trial.

The case was tried with Dr. Cole as the sole Defendant. However, to the extent Dr. Cole was at fault on Plaintiff's personal injury claim, he sought to apportion fault to the hospital on the claim regarding the tourniquet. The jury considered separate interrogatories on the wrongful death and personal injury claims. It answered on both counts that Dr. Cole had not breached the standard of care and the jury did not reach causation. The jury did not reach damages or apportionment to the hospital.

Attorney Spotlight

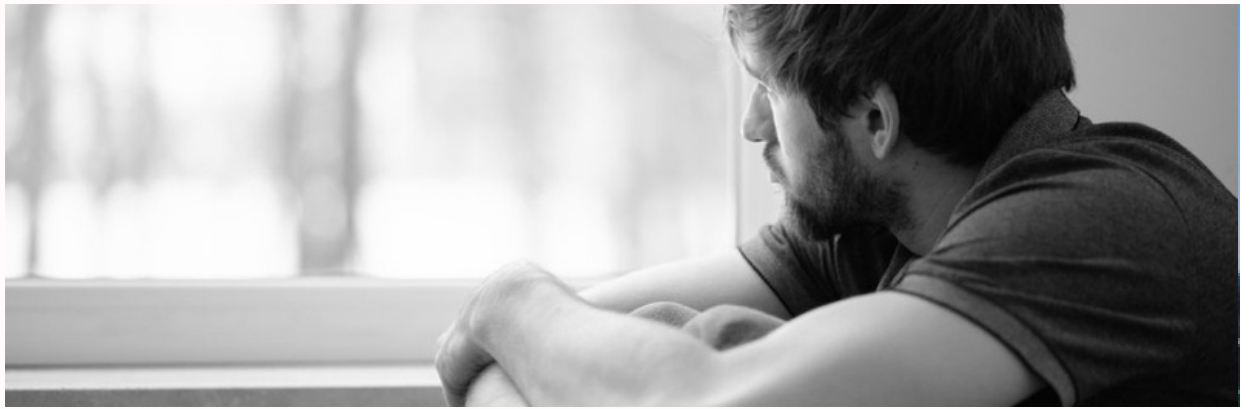
Amanda Orr



Amanda is a 2012 graduate of the Mississippi College School of Law, and is licensed to practice in both Mississippi and Georgia. Her practice areas include Insurance Defense, Automobile and Commercial Ground Transportation Litigation, and Premises Liability, but her primary focus is Workers' Compensation defense

While in law school, Amanda earned the American Jurisprudence Award in Workers' Compensation and Appellate Advocacy and competed as a Finalist in the Mississippi Workers' Compensation Moot Court Competition. That same year, she was named a National Semi-Finalist at the E. Earle Zehmer Workers' Compensation Moot Court Competition, and won first place for Best Written Brief. Amanda's experience in the workers' compensation field grew further when she participated in an externship at the Mississippi Workers' Compensation Commission, working closely with all of the Administrative Judges. Amanda handles all phases of litigation in federal and state courts, and brings a unique and enthusiastic approach in defending cases. In every case, her goal is to bring closure to cases to her clients' highest satisfaction.

Amanda regularly attends and speaks at conferences to educate employers and insurance carriers, and was recently honored to serve as a Panelist for the Jackson Women in Leadership Symposium held in Jackson, Mississippi.



FMLA Retaliation Trial

Plaintiff began working as a laborer in November of 2020 for Ashley Furniture. The company has a manufacturing and distribution center in Ecru, Mississippi. Plaintiff suffered an unimaginable loss when his two sons were tragically killed in separate incidents in August of 2020 and July of 2021. This, as one would expect, created significant anxiety and depression for Plaintiff. He began to treat with a counselor. The counselor recommended in March of 2022 that Plaintiff take FMLA leave to deal with his emotional symptoms. His counselor sent a letter to Alex Jeter, an HR official at Ashley Furniture, describing Plaintiff's need for leave.

The day after the letter was sent, Plaintiff came to work early at lunchtime in advance of his shift starting at 5:00 p.m. He had a conversation with Jeter. Plaintiff reported that Jeter told him he could have two weeks off. Plaintiff replied that this was not enough. Jeter, by Plaintiff's recollection, told him that if two weeks was not enough, he could resign. Plaintiff was insistent he wanted more time off. Jeter immediately fired him.

This was one version of what had happened. Jeter and Ashley Furniture saw it differently. Jeter explained first that the decision to terminate Plaintiff had already been made before the meeting due to Plaintiff's absenteeism. He had missed some 14 days in the last year, the allowable amount being 8 days. When the decision to terminate Plaintiff was made, by Ashley Furniture's telling of the events, Jeter did not know about the request for FMLA leave. Plaintiff believed this excuse was a pretext to mask FMLA retaliation, ADA discrimination and ADA retaliation.

Those allegations formed the basis of this lawsuit. Plaintiff advanced those three counts to trial. If he prevailed on FMLA retaliation, he could take "actual damages." If prevailing on the ADA counts, he could take both actual damages and additional sums for "mental anxiety and stress" associated with the discrimination and retaliation. This case was tried for three days in Aberdeen. The jury rejected all three claims and then did not reach damages. A defense judgment was entered by the court.



Dog Attack Defense Verdict

Defendant of Saucier, MS has a dog named Bubbles who was a Mastiff-American bulldog mix. Defendant sometimes kept Bubbles tied up to a tree. On the date of this incident in 2023, Defendant had secured Bubbles's collar and he was confined to the tree. Plaintiff is Defendant's neighbor. He had been running errands and let his dog, a Blue Heeler named Buttons, out into his yard. A moment later Bubbles charged onto the Plaintiff's property. Bubbles had gotten loose.

A moment later, Bubbles began to maul Buttons. Plaintiff jumped in to assist his dog. Bubbles came at Plaintiff and chased Plaintiff onto the hood of a car. As Plaintiff kicked at Bubbles, the dog bit him on the foot. Plaintiff had now been bitten twice, first in confronting Bubbles and then a second time when he jumped on the car. Bubbles turned his attention again to Buttons and continued his attack. Plaintiff jumped from vehicle and grabbed a piece of equipment. He swung it at Bubbles and also fired his shotgun into the ground. This dissuaded Bubbles, who retreated home.



Plaintiff treated for personal injuries from the attack by Bubblegum, including to his foot. He also endured painful rabies shots because Bubblegum had not taken the rabies “jab.” Buttons too had serious injuries and underwent three surgeries. The dog’s injuries became septic and Buttons died two months later. There was security video in the area that caught the attack on tape. Plaintiff filed this lawsuit and alleged negligence by Defendant in failing to control his dog. The jury instructions described Defendant’s duties in the negligent handling of his pet, which were Defendant had failed to secure Bubblegum. If Plaintiff prevailed at trial, he could recover economic and non-economic damages.

This case was tried for two days in Gulfport. The court’s instructions asked if Defendant was liable for negligent handling of an animal which was a proximate cause of injury to Plaintiff. If the jury answered “yes” for Plaintiff on this question, it would then consider another question. This one was bizarre. Judge Bourgeois’ instructions asked the jury to quantify the percentage of fault attributed to Defendant as compared to others. The instructions did not say who the others were nor did it ask the jury to quantify what percentage of the fault might be assessed to those others. As it turned out, the jury said “no” on the “negligent handling” question and did not reach the second (and very odd) percentage of fault question. That ended the deliberations and the jury did not reach damages. A consistent defense judgment was entered.





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