

August 2020



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TWPD OBTAINS SUMMARY JUDGMENT IN NEGLIGENCE CASE

Ginny Deliman and Lyle Robinson won summary judgment for TWPD's client, BMW of Meridian, in a case alleging negligent repairs and service of a used BMW. The plaintiff purchased the used vehicle from another car lot and later brought it in to BMW of Meridian for an oil change, brake fluid service, and multipoint check.

RECENT CASES AND NEWS

**MISSISSIPPI GENERAL
LIABILITY NEWSLETTER**

After driving the car for more than 430 miles over a few weeks after the repair shop's service, the car's timing components failed and the engine "jumped time." Plaintiff claimed that BMW of Meridian had failed to repair and/or diagnose the imminent failure of the timing components.

The Motion for Summary Judgment was supported by the affidavit of a BMW master technician, which established that there was no fault code, audible noise, or any visual inspection that indicated any issue with the timing components when the vehicle was in the repair shop. The Lauderdale County Court granted summary judgment, finding an absence of evidence to establish that the repair shop had breached any duty or that there was any causal connection between the work the repair shop performed and the timing component failure that occurred weeks later. TWPD's attorneys identified the causation issue early in the litigation and pursued summary judgment even before discovery got underway, minimizing the litigation expenses and ending the risk of exposure for the client.

[Order Granting Defendants Motion For Summary Judgment](#)

Attorney Spotlight



Jeremy D. Hawk, Partner

Jeremy Hawk is a problem solver. Jeremy has over 17 years' experience throughout the State of Mississippi handling various types of personal and commercial lawsuits and claims. Jeremy's goal for each of his clients and insureds is to create a personal relationship with open lines of communications. Jeremy was raised on the Mississippi Gulf Coast and completed his college curriculum in Mobile, Alabama. After finishing law school in Jackson, Mississippi, he practiced for 16 years with a regional law firm handling a wide variety of defense litigation ranging from motor vehicle accidents and transportation litigation to premises liability and municipality defense to employment matters. Jeremy understands that results matter and will put forth every effort to get the best outcome for his clients. When not practicing law, Jeremy enjoys watching English Premier League soccer, playing a round of golf and deer hunting.



MISSISSIPPI ENACTS BROAD CIVIL IMMUNITY PROTECTION FOR COVID-19 EMERGENCY

On July 8, 2020, Mississippi Governor Tate Reeves signed into law Senate Bill No. 3049, the “Mississippi Back-to-Business Liability Assurance and Health Care Emergency Response Liability Protection Act,” legislation designed to provide broad protections from civil lawsuits for various COVID-19 – related activities. The following are a few of the more notable features of this important legislation:

The Act provides immunity for any “person” (defined to include individuals, the state and its political subdivisions, associations, educational entities, for-profit or nonprofit entities, religious, and charitable organizations) or an owner/lessee/occupant of a premises from civil damages for injuries or death resulting from or related to actual, alleged, or potential exposure to COVID-19. In order to qualify for this immunity the defendant must be able to show that they attempted “in good faith to follow applicable public health guidance.” The bill also extends this immunity to persons acting “in the time before applicable public health guidance was available.” A plaintiff who is able to show to the judge or jury “by clear and convincing evidence” that a defendant acted with “actual malice or willful, intentional misconduct” can overcome any of the immunities provided in the Act.

SB 3049 also extends immunity from suit to health care professionals and health care facilities for “acts or omissions while providing health care services related to a COVID-19 state of emergency.” The Act further provides immunity from lawsuits for product manufacturers, including personal protective equipment, medical devices, diagnostic tests, equipment, supplies and off-label uses of medications to treat COVID-19 or prevent its spread.

The Act is retroactively effective to March 14, 2020, and extends until one (1) year after the end of the emergency. However, protections extend in perpetuity for acts, omissions, or injuries that occur while the Act is in effect. All lawsuits for alleged COVID-19 – related injuries must be brought no later than two (2) years after the cause of action accrues. A full copy of the bill is available on the Mississippi Legislature’s website, accessible through this link: <http://billstatus.ls.state.ms.us/documents/2020/pdf/SB/3000-3099/SB3049SG.pdf> .



TWPD WIN FOR LOCAL COMPANY

Jeremy Hawk successfully defended Bob's Pool Service, a large pool company in Mississippi, in a lawsuit filed in Madison County, Mississippi.

The Plaintiff alleged that the pool company failed to properly repair or service his pool and was attempting to recover funds paid to Bob's Pool Service under a contract.

Jeremy filed a counter-claim against the Plaintiff for funds still owed to Bob's Pool Service under the same contract. The judge found for Bob's Pool Service awarding the Defendant the full amount owed under the contract and his attorneys' fees.

Judgment - Bob's Pool Service 6.19.20



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The success we have seen is because of the way we built our practice. It's about more than routine strategies. It's about creative resolutions to difficult legal questions. It's about how we treat our clients and each other and how we work together to build the best possible defense for every single case. It's

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