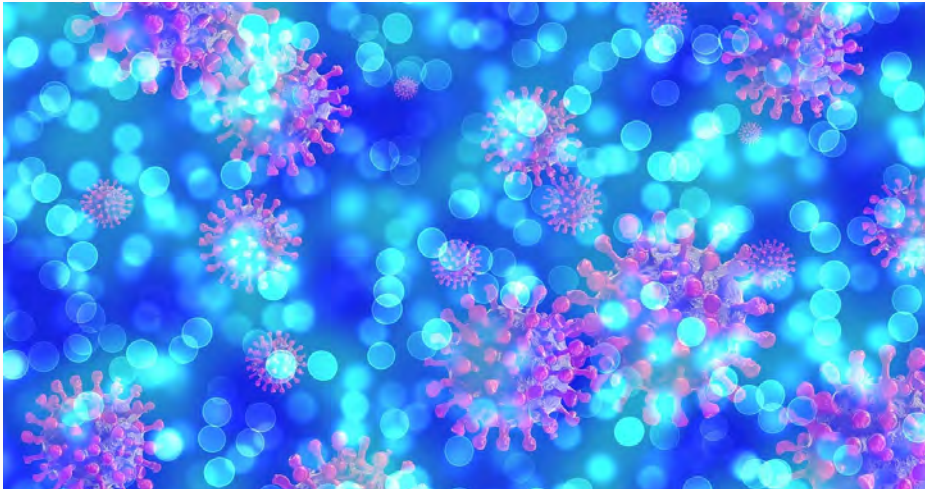




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September 2020



MISSISSIPPI'S FIRST TRIAL POST-COVID-19

Mississippi's first jury trial to since Covid-19 took place in Hancock County in late August (jury verdict form linked below). The case was tried before Judge Lisa Dodson and was styled *Brandner v. Golconda Holdings, LLC et al., Cause No. A2301-17-0435*.

RECENT CASES AND NEWS

MISSISSIPPI GENERAL
LIABILITY NEWSLETTER

The case involved a moderate rear-end crash and plaintiff alleged injuries that included a thoracic compression fracture as well as lumbar and disc injuries. The tortfeasor had minimal insurance coverage (\$25,000). Therefore, the focus of the trial was on the two UIM carriers, State Farm and PURE, who both had significant limits. The main dispute at trial centered around damages and the defendants argued that the plaintiff had recovered from the thoracic injury and the ongoing treatment was unnecessary. Their defense included testimony from a Mississippi resident neurosurgeon, Dr. John Davis, who performed an IME on the plaintiff.

The jury found for the plaintiff and awarded medicals of \$300,000 and \$492,909 in future care. The jury also awarded non-economic damages of \$500,000 for plaintiff's pain and suffering, placing the verdict total at \$1,292,909. The attorneys for the parties were all local counsel who practice in and around Hancock County, Mississippi. It is noteworthy that the Court decided to follow the Heflin opinion which removes the uninsured/underinsured motorist carrier's name from the pleadings but allows its counsel to participate at trial. See *Heflin v. Merrill*, 154 So.3d 857 (Miss. 2014) (also linked below). Heflin was successfully defended at trial and appellate court by Jeremy Hawk in our Mississippi office.

Bradner v Colconda Holdings
Heflin v Merrill 154_So.3d 857

Attorney Spotlight



Haley B. Mathis, Associate

Haley practices in our Jackson, Mississippi, office and primarily focuses on general liability and workers' compensation matters. After graduating Law School in 2016, she has enjoyed a diverse practice representing clients in personal injury, workers' compensation, domestic matters and criminal matters. She joined TWPD in 2017 and works with numerous employers, insurers, and TPAs to handle various types of personal, commercial, and employment claims.

Haley has been a guest speaker at the MASI fall conference, and focuses her practice on creating strong relationships with both clients and colleagues. When not in the office, Haley enjoys judging Mock Trial Competitions and being involved in local professional groups. She is a proud Ole Miss Rebel and enjoys spending time with her husband, Ben, and dogs, Maverick and Nala.



Summary Judgment Win

Lyle Robinson and Ginny Deliman successfully obtained summary judgment on behalf of TWPD's client, Lowe's Home Stores, in a premises liability case.

The plaintiff was in the store shopping for paint and tripped and fell on a large blue lowboy cart that was situated along the side of the aisle. The cart was one of several that were being used by Lowe's employees who were restocking shelves. During discovery, the plaintiff admitted that he had seen the cart while speaking to a Lowe's employee. However, as he walked away from the conversation, he backed into the cart, tripped and fell. He claimed damages for injuries to his back and hip. Lowe's argued that the lowboy cart was not an unreasonably dangerous object and thus the plaintiff could not meet his burden to establish Lowe's liability for the plaintiff's fall.

The U.S. District Court for the Southern District of Mississippi agreed with this position, reasoning that lowboy carts were the type of objects typically used in retail home improvement centers and which customers should reasonably expect to encounter in a similar business of this type. As a result, the Court granted summary judgment in favor of Lowe's Home Centers and dismissed the case with prejudice.

This ruling sets precedent for future cases involving injuries arising from use of these types of carts, which are provided for use of customers shopping in retail home improvement centers.

MEMORANDUM OPINION AND ORDER GRANTING DEFENDANT LOWE'S HOME CENTERS, LLC'S MOTION [24] FOR SUMMARY JUDGMENT



UPDATE TO MISSISSIPPI LAW GOVERNING MINOR'S SETTLEMENTS

The Mississippi legislature recently amended Miss. Code Ann § 93-20-431 regarding chancery court approval for the transfer of sums to minors and imposes a duty upon the chancery court to investigate and determine whether the settlement is in the best interest of the ward. It provides that if the sum of money or value of property is not a liquidated sum certain or property of certain value under a banking or contract provision, or imposed by a court, the person must seek chancery court approval.

In its determination, the chancery court must “fully investigate” and satisfy that the settlement is fair and in the best interest of the ward. Then, after making that determination, the chancery court can then order the sum be given by the person and accepted by the ward. The person who receives the money or property of the ward becomes liable to dispense it for the use and benefit of the ward. Additionally, any sum under \$25,000 is not required to be placed into a restrictive account. This new provision provides a safety net for wards and gives the chancery court the burden of investigating the matter to ensure the ward is not being taken advantage of and that their interests are protected.

<http://billstatus.ls.state.ms.us/documents/2020/html/HB/1100-1199/HB1136IN.htm>



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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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