



TAYLOR  
WELLONS  
POLITZ & DUHE

November 2020



## **CAR DEALERSHIP AND INSURER NOT LIABLE FOR NEGLIGENCE OF CUSTOMER DRIVING LOANER VEHICLE**

Haley Mathis, Ginny Deliman, and Jill Miller secured summary judgment in favor of their client, Booneville Auto Sales, who was sued in the Circuit Court of Prentiss County, Mississippi.

RECENT CASES AND NEWS

**MISSISSIPPI GENERAL  
LIABILITY NEWSLETTER**

The suit arose from a motor vehicle collision allegedly caused by a customer driving a loaner vehicle while his vehicle was in the dealer's shop for repairs. The plaintiff demanded \$5 million in damages.

The Complaint sought to attach liability to Booneville Auto Sales and its deep-pockets insurance through various theories, including that the customer was an employee of the dealership. The plaintiff also alleged "joint venture" between the dealership and customer, or alternatively, that the dealership was liable for the customer's negligence as a "permissive user" of the vehicle.

These allegations prompted TWPD to develop a two-pronged defense approach. First, the firm won summary judgment defeating the initial claim that the customer was an "employee" of the dealership, and, then defeated plaintiff's efforts to amend the suit to allege any other theories of liability. With these victories, the state court suit was dismissed against Booneville Auto Sales

On a separate front, TWPD's attorneys pursued a declaratory judgment action in federal court on behalf of the dealership's insurer, AXA-XL/Catlin Specialty Insurance Company, against the customer/defendant driver. The plaintiff in the underlying negligence action moved to intervene in the declaratory action, but TWPD opposed the motion and the plaintiff was denied intervention by either right or permission. The United States District Court awarded judgment in favor of AXA-XL/Catlin, holding that it owed no obligation to defend or indemnify the customer for any claims arising from the collision because he did not qualify as an insured under the dealership's policy.

TWPD's two-pronged approach to proactively address the liability and insurance coverage issues resulted in a successful conclusion of this claim for AXA-XL, foreclosing any liability under the policy, and benefitted AXA-XL's insured, Booneville Auto Sales, by eliminating any potential excess exposure for the collision involving its loaner vehicle.

[Order Granting MSJ](#)

[Order Denying Motion to Intervene](#)

## Attorney Spotlight



### Hannah Katherine Herrin, Associate

Hannah Katherine Herrin is an Associate in our Mississippi office. She was raised in small-town Purvis, Mississippi, and obtained both her bachelor's and juris doctorate at Ole Miss. While her primary focus is on Worker's Compensation Defense, she also practices both General Liability and Construction Law.

Prior to joining the firm in 2019, she was a law clerk for Mississippi Supreme Court Justice David Ishee, where she researched diverse legal issues and helped draft numerous Mississippi Supreme Court decisions. Hannah Katherine challenges herself every day to achieve the best possible results for all of her clients, big and small alike.



## **HINDS COUNTY JURY RETURNS VERDICT IN FAVOR OF FOLLOWING DRIVER IN REAR-END COLLISION**

A Hinds County jury recently awarded a verdict in excess of Two Million Dollars to a plaintiff who rear-ended the truck and trailer ahead of her. The Plaintiff, Ms. Newton, was driving a Nissan Altima and alleged that she was driving southbound on U.S. Highway 49 when a truck pulling a car-hauling trailer changed lanes and cut her off and she rear-ended it, resulting in serious damages. Specifically, Plaintiff alleges to have suffered multiple open fractures to her femur, knee and ankle, as well as a broken sternum. The Defendant driver for IB Logistics countered that he had to slow for debris on the road and was suddenly rear-ended by the Plaintiff. Liability was disputed.

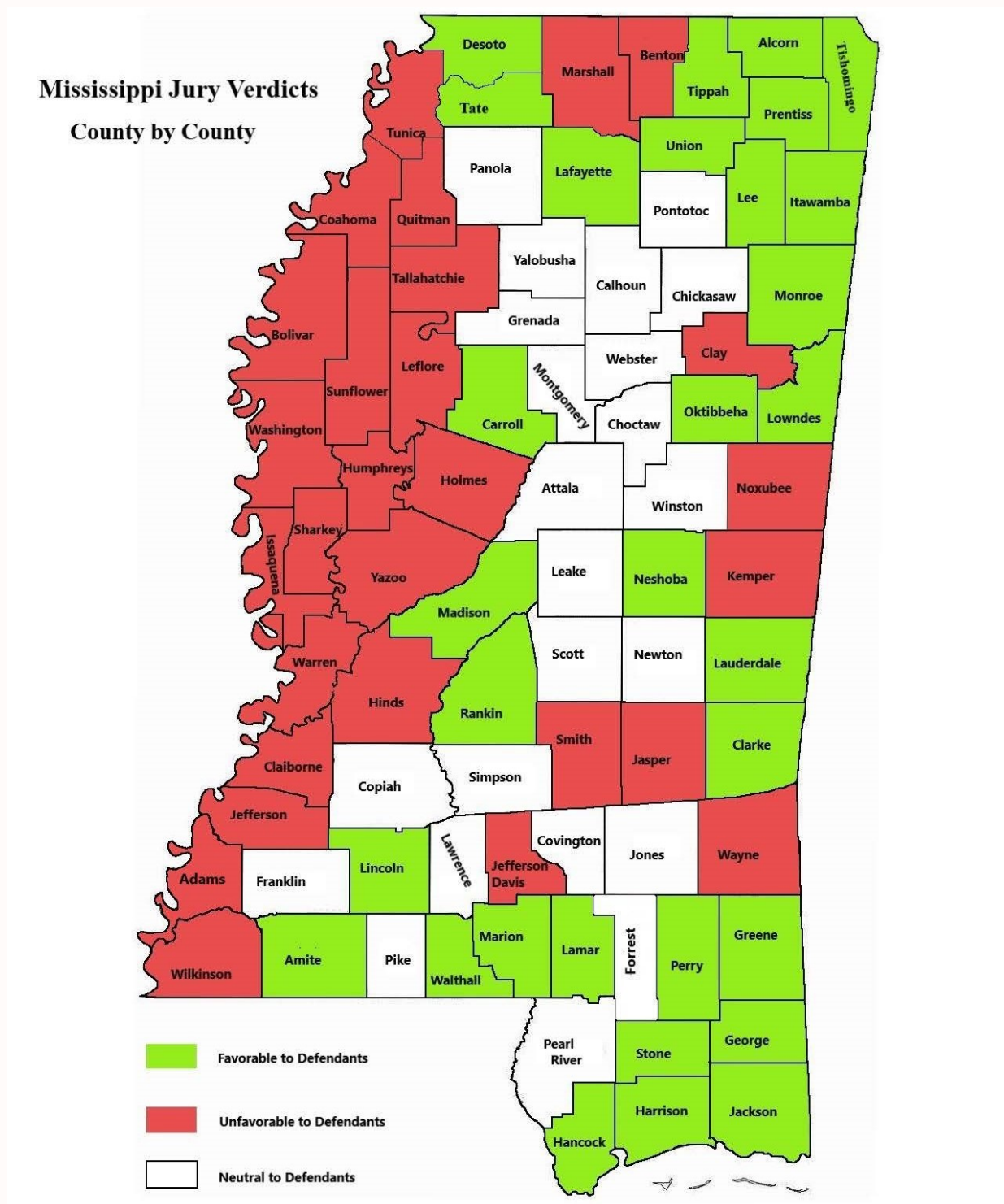
Newton was age 33 at the time of the incident and a home health nurse. Both sides called experts in accident reconstruction, and it was estimated that Newton rear-ended the truck at a speed of 60-65 mph which was offset by the Defendant's estimated speed of 30 mph. Newton's medical bills were approximately \$300,000 and she presented a claim of future lost wages of \$682,883 through a team of experts including an economist, life care plan expert and rehabilitation specialist.

The jury found for the Plaintiff and awarded her \$292,582 in actual medical damages and \$784,229 for future damages. The jury also awarded her \$1,000,000 in non-economic damages (the maximum allowed under Mississippi law), for a total award of \$2,759,094. For more information about this case, we have included a link to review various documents associated with the trial and verdict.

[The Jury Verdict](#)

[The Final Judgement](#)

# A GUIDE TO JURIES IN MISSISSIPPI – COUNTY BY COUNTY





TAYLOR  
WELLONS  
POLITZ & DUHE



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

**PRACTICE,      "**  
**MADE PERFECT**

BATON ROUGE

NEW ORLEANS

MISSISSIPPI

[WWW.TWPDLAW.COM](http://WWW.TWPDLAW.COM)

866-514-9888 TF