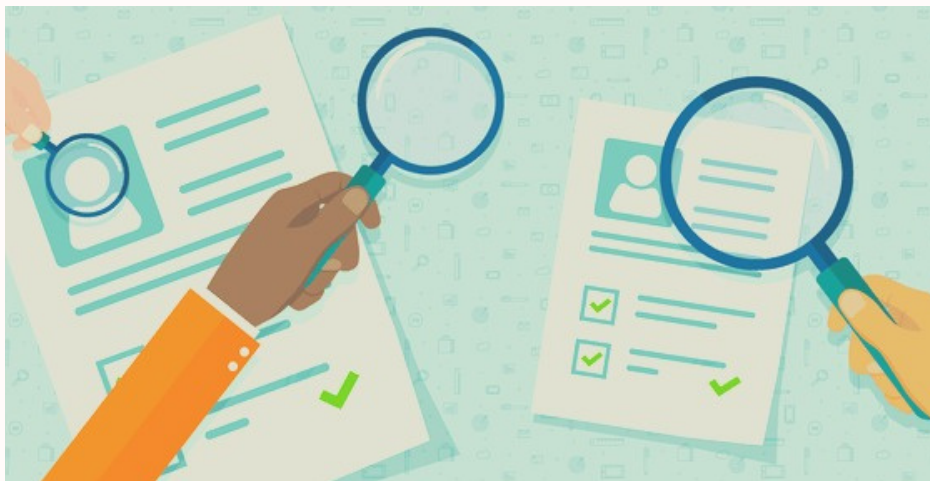




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JULY 2022



HAWK SPEAKS ON PANEL AT BROTHERHOOD MUTUAL INSURANCE COMPANY

Jeremy Hawk, a partner in our Mississippi office, spoke on a panel titled “A Beginner’s Guide to Pre-suit Investigations” at Brotherhood Mutual Insurance Company in Fort Wayne, Indiana on June 23, 2022. The event was hosted by Eagle International Associates and also on the panel were Lindsey Woodrow (Wisconsin/Minnesota), Gerald Valentini (Pennsylvania) and Sloan Abernathy (Louisiana).

MISSISSIPPI GENERAL LIABILITY NEWSLETTER

RECENT CASES AND NEWS

Attorney Spotlight

B. Lyle Robinson



Lyle was born in Atlanta, Georgia, in 1970. He received a Bachelor of Business Administration in Risk Management and Insurance from the University of Georgia in 1992. He received his Juris Doctor magna cum laude from Mississippi College School of Law in 2000. While in law school, he served as the Managing Editor of the Law Review. In addition, he received AmJur Awards in Insurance Law and Secured Transactions, and was awarded an academic scholarship. Lyle is admitted to practice in all state and federal courts in the state of Mississippi, as well as the United States Courts of Appeals for the Fifth and Eleventh Circuits. He is an experienced litigator who specializes in matters that involve complex commercial and tort litigation, insurance coverage disputes, bad faith claims and products liability. Lyle is a member of The Mississippi Bar, the Capital Area Bar Association, the Defense Research Institute and the Mississippi Defense Lawyers Association.



NOTABLE SLIP AND FALL VERDICT IN HINDS COUNTY

Willa Womack was a patron on January 6, 2020 at a Pilot Travel Center. She entered the front door and traversed a breezeway. There was a “wet floor” sign lying on the floor. It was not raining. Instead, the sign had been knocked over five minutes earlier by another customer. Womack slipped (or stepped) on the wet floor sign – she reached out for the handle of the door as she was falling. Womack missed and struck her head and shoulder on the door as she fell.

Womack treated for several injuries, including medial and meniscal tears in her knees that were imposed on pre-existing conditions. Dr. Chad Hosemann, an orthopedic surgeon, described those injuries and indicated Womack would require bilateral knee replacement surgeries. Womack also complained of back pain. In this lawsuit, Womack presented an interesting premises liability theme. She focused on the presence of the wet floor sign lying flat on the ground. Womack explained it should not have been there in the first place since it was not raining. There was no mop or bucket present. Womack argued Pilot Travel created the hazard not by knocking the sign over, but rather for having the sign there at all when it was not needed. Womack’s liability expert on retail safety/security was Ken Goodrum, a retired Jackson police officer.

Pilot Travel denied fault for the incident and noted that the wet floor sign had only been knocked over a few minutes earlier as captured on video surveillance. The customer that did this did not alert Pilot Travel staff and thus, in the exercise of reasonable care the store did not have time to discover and remedy the “knocked-over” sign.

This Jackson jury found Pilot Travel 100% at fault and rejected any apportionment to Womack. Womack took \$220,000 for her medical bills. The jury then made specific findings for future care by body part:

\$40,000 (Knee)

\$112,000 (Spine)

\$21,000 (Mental health)

Finally, the jury added \$3,000,000 for Womack's pain and suffering. The raw verdict totaled \$3,393,000.

The court's judgment reduced the verdict to \$1.393 million to account for Mississippi's statutory scheme [Miss. Code. Ann. § 11-160(2)(b)] that limits non-economic damages to \$1,000,000.



LANDOWNER IMMUNITY REFRESHER

On July 1, 2019, Mississippi's Landowner Protection Act went into effect and significantly changed Mississippi premises liability law. Miss. Code Ann. § 11-1-66.1 codified pre-existing common law and defined the level and type of proof necessary to establish a premises liability claim based on the intentional conduct of a third party. By limiting a landowner's liability to the specifically defined instances discussed below, the LPA made it more difficult for Mississippi plaintiffs to bring a successful premises liability lawsuit based on injuries sustained at a landowner's business premises as a result of a third-party's intentional criminal or tortious actions.

Prior to the enactment of the LPA, a Mississippi plaintiff could bring a successful premises liability claim and recover damages for injuries sustained at a business as a result of a third-party's intentional criminal or tortious actions by establishing that:

Under the LPA, anyone who owns, leases, operates, or maintains a commercial property in Mississippi is immune from civil liability for injuries caused by a third party's intentional criminal or tortious conduct (assault, battery, etc.), so long as the landowner or occupier did not "actively and affirmatively, with a degree of conscious decision-making, impelled [set in motion] the conduct of said third-party." Miss. Code Ann. § 11-1-66.1(1)(b).

Furthermore, under the LPA, the scenario in which a landowner will be deemed to have had constructive notice of the potential for a third-party's criminal or tortious actions is considerably reduced due to the narrowed definition of an "atmosphere of violence". Miss. Code Ann. § 11-1-66.1(3). Now, instead of looking at the general vicinity of the business's premises to determine whether an "atmosphere of violence" existed at the time a third-party's violent actions caused injuries to a business's patron, the law looks to the business premises itself.. Under the LPA, an "atmosphere of violence" will only be deemed to have existed at a landowner's property if, within three (3) years of the subject injury, there were three (3) or more separate events or incidents on a business's premises which resulted in three (3) or more arraignments of an individual for a felony involving an act of violence. This codified version of what constitutes an "atmosphere of violence" greatly decreases the chance that a plaintiff will be able to prove that a landowner could foresee the possibility of a third-party's tortious or criminal actions.



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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 resolution 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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