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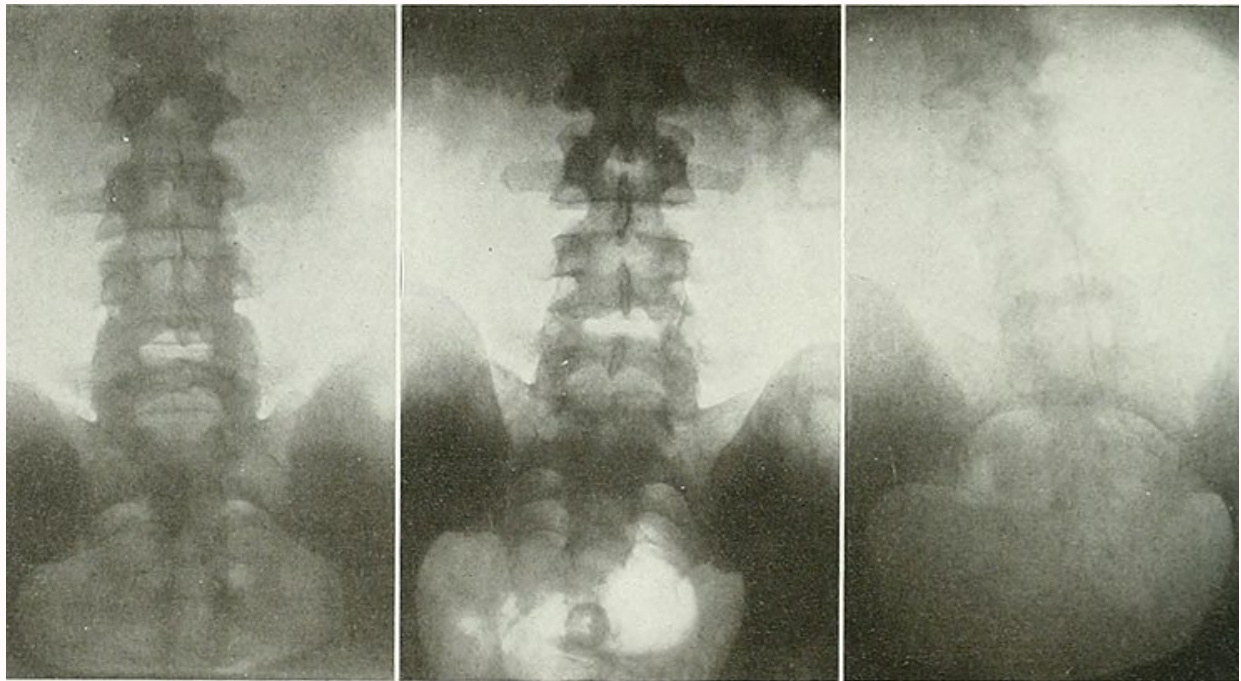


## HINDS COUNTY TRUCKING VERDICT

Plaintiff traveled on I-55 near Jackson. He was driving a Honda CRV. Behind him in traffic was the operator of a tractor trailer for Krueger International. The truck driver was distracted by a circus that was on a nearby Frontage Road. The truck rear-ended Plaintiff. Plaintiff's vehicle spun around, struck another vehicle and flipped over in the median. Plaintiff was taken to a local hospital where he was x-rayed, treated and released. Plaintiff had a complex medical history. He was injured at work in 2009 and underwent a long course of care. He had an L5-S1 fusion surgery in 2010 and then three years later, the hardware was removed in a second surgery. Plaintiff pursued a worker's compensation claim that settled in 2016.

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There was proof he continued to treat for radiating back pain through January of 2015. Due to this crash, Plaintiff complained of (1) the aggravation of the prior injury and (2) a new disc injury at L4-5. Plaintiff treated with Dr. Adam Lewis, a neurosurgeon in Jackson. Lewis recommended the implant of a spinal cord stimulator. Its cost was estimated at \$727,323 by Dr. Todd Cowen, physical medicine, and Gerald Lee, economist. That sum included amounts to install the stimulator, as well as its upkeep, including batteries.

The defense admitted fault for the wreck. It also conceded that Plaintiff's initial medicals (the ER visit, PCP and a steroid injection) of \$27,654 were crash related. There were additional incurred medicals (\$61,000) which were contested. Plaintiff also sought to recover future medicals for the spinal cord stimulator.

Krueger's defense of the case minimized what it called the "alleged" injury. It noted that at the scene, Plaintiff was able to walk to the ambulance and was discharged in good condition. The heart of the defense case was that Plaintiff's ongoing problems were a continuation of the prior 2009 injury.

The defense looked to trace a straight line of radiating back pain from the 2009 work injury all the way through to this crash. Krueger also suggested Lewis' testimony regarding the spinal cord stimulator was just for a trial and, in fact, the stimulator might not work or be needed. This case was tried for four days in Jackson. The jury only considered damages.

The jury awarded past medicals of \$27,654 as conceded by Krueger. The jury then awarded Plaintiff \$61,000 more for additional medical care that had been contested. Plaintiff also took \$727,333 for future care. This sum was consistent with the amount claimed for the spinal cord stimulator. Finally, Plaintiff took the odd number of \$1,184,022 for his pain and suffering which then reached a total verdict of \$2,000,000.

## 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.



## **LARGE DESOTO COUNTY TRUCKING AWARD**

Plaintiff was working at a loading dock in January of 20 for Amerisource Bergen in Olive Branch. A trucker for Ballentine Express had parked a box truck at a loading dock. Plaintiff had just finished unloading the shipment and returned to the truck to retrieve a pallet jack. As Plaintiff did this, the trucker pulled away. Plaintiff fell out of the truck to the concrete surface below. He suffered serious injuries, including a compound tibia/fibia fracture and a broken collarbone. His medical bills were \$247,745 and his future care was estimated at \$522,317. Lost wages were \$120,000 and Plaintiff claimed \$300,000 more in the future. The special damages totaled \$1,190,064. The injuries were confirmed by Dr. Howard Katz, physical medicine.

In this lawsuit, Plaintiff alleged negligence by the Ballentine driver in pulling away from the dock. Plaintiff noted that there was a lighting system at the dock with two options for drivers - red or green. There was proof that at the time the driver abruptly pulled away, the light was red indicating he should have stayed in place. The case was simplified at trial. The parties agreed to stipulate to the special damages of \$1,190,064 and thus, there was no need for expert economic or vocational proof. As the jury was instructed and despite the stipulation, the line for economic damages was left blank. The presumption was that if the jury found fault, it would award the \$1,190,064 as stipulated. Ballentine contested liability that Amerisource had a dock restraint system that should have locked the truck in place. It cited that Plaintiff was in charge of doing that and moreover, he failed to chock the wheels or advise anyone he was still in the truck after it had been unloaded.



The defense also noted that after this incident, plaintiff's employer was cited for an OSHA violation. The defense truck safety expert was Jim Stanley, Franklin, TN. The jury's verdict was mixed on fault. It found Ballentine 80% at fault. The jury assessed 20% more to Plaintiff's employer (Amerisource) but rejected any apportionment to Plaintiff. The 20% assessment to his employer would work to reduce any award of damages by that amount. The jury moved to damages and wrote in the \$1,190,064 that was stipulated for economic damages. It added \$2.25 million more for his pain and suffering. The non-economic damages were 2.67 times the specials. The raw verdict was \$3,440,064. But for Mississippi's tort scheme (it limits non-economic damages to \$1,000,000 in this context), the final judgment would have been for \$2,752,051, representing the raw verdict less 20% comparative fault. However because of the scheme, the \$2.25 million in pain and suffering was first reduced to an even \$1,000,000. The adjusted total verdict of \$2,190,064 (the \$1,000,000 plus the special damages) was then further reduced by comparative fault. Thus the final judgment entered by Judge Wilson was for \$1,752,051.





## DEFENSE VERDICT IN JONES COUNTY

Plaintiff was driving an asphalt truck the morning of August of 2020. He traveled on I-59 near Purvis. Defendant was driving a pick-up truck and fell asleep. The Defendant crashed hard (he was going approximately 75 mph) into the plaintiffs truck. The pick-up truck suffered severe damage. There was only minor damage to the rear of the asphalt truck. Fault was no issue.

Plaintiff reported neck and back pain at the scene and was taken to the Forrest General Hospital where he was treated and released for a chest bruise and soft-tissue injuries. A few weeks later, he began to treat with Dr. David Lee, neurosurgery, for neck and back pain. Lee confirmed those injuries and began a course of care that included physical therapy, neck and back injections, a radio frequency ablation and the insertion of a spinal cord stimulator. Plaintiff reported debilitating back pain that radiates down his left leg and into his toes. His medical bills were \$132,000 and there was proof he would require future care including pain medications and maintenance of the spinal cord stimulator.

The defense admitted fault but contested the case on causation. It first looked to testimony from an IME, Dr. Richard Clatterbuck, neurosurgery, Hattiesburg. The expert thought that it was likely there was no injury at all and at worst, Plaintiff suffered just a “possible” temporary injury. Clatterbuck’s opinions were buttressed by video taken in the cab of the asphalt truck. It suggested just a minor impact and minimal movement of Plaintiff’s body. The video contradicted Plaintiff’s testimony that his chest struck the steering wheel at impact. Then, in the moments after the collision, Plaintiff jumped in and out of the truck and moved around it bending over and otherwise not suggesting any pain or limitation in his movement. The heart of the defense then was that Plaintiff was not credible nor did he suffer a compensable injury. This case was tried for three days. The deliberations lasted just a few minutes. The jury returned a defense verdict on causation and wrote “zero” for plaintiff’s damages. A defense judgment was entered.



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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