

Jury awards \$10 million to Claremore quadriplegic

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After nine hours of deliberation, Rogers County jurors awarded the largest verdict in Rogers County history to a 27-year-old Claremore man left quadriplegic from a 1988 accident.

The nine-woman, three-man jury empanelled in the two-week civil negligence trial exited the jury room at 10:15 p.m. Friday, awarding Scott O'Dell Hinds \$10 million in damages against Warren Transport, a trucking company.

"That's the largest verdict in Rogers County by a long shot," Hinds' attorney Stratton Taylor said. Previously, \$1.6 million was the highest amount granted by a jury in this county.

"We went and visited Scott last night," Taylor said this morning.

"He had the biggest smile on his face I've ever seen ... It's like he'd been given a future ... He had hope once again."

Hinds' hope first died shortly after midnight April 30, 1988, when he rearended the back of a Warren Transport semi that was parked in the right lane of traffic on a bridge about a half-mile south of Pryor on Highway 69. A Camaro overturned in the road, and truckers stopped at the scene.

Hinds' attorneys said the trucking company failed to properly train truckers about the laws that govern them regarding things such as parking in roadway and displaying warning signals and triangles.

Warren Transport claimed Hinds could have avoided the accident had he not been drinking. The court ruled Hinds' blood alcohol test inadmiss-

able in the trial.

case, it may be two to four years before Hinds sees any of the awarded monies. The company will have to post a bond equaling 125 percent of the ruling, more than \$10 million, upon filing an appeal.

Disputed issues

Blood alcohol test:

Both sides had evidence ruled inadmissible in the trial. The court ruled that Hinds' blood alcohol test was done improperly and, therefore, could not be presented to jurors.

Warren Transport said Hinds' blood alcohol test, taken at 2:05 a.m. April 30, 1988 at St. Francis Hospital in Tulsa, was crucial to its case.

According to the St. Francis laboratory report, Hinds' ethyl alcohol level registered .107 percent about one-and-a-half hours after the accident. A person is legally intoxicated at .10 percent.

Taylor said the court "correctly" ruled it inadmissible because the test "was done by an unknown nurse" in an "improper way." He said an alcohol swab was used on Hinds' arm before the test was administered — a process that could amplify results.

Woodard said the judge applied criminal standards to a civil case. For a blood alcohol test to be allowed to be used against someone facing criminal charges, the investigating officer must go to the hospital and administer the test using a pre-packaged kit. Certain other procedures must be followed.

Previous accidents:

"There were other things that weren't admitted," Taylor said. The court ruled records of previous accidents involving Warren Transport inadmissible in the trial.

Taylor said there had been other accidents in which Warren truckers failed to display warning triangles.

Nine of the 12 jurors found Hinds 43 percent at fault in the accident and Warren Transport 57 percent negligent. They awarded Hinds \$13,700,203 in damages and \$2 million in punitive damages. The \$13.7 million is reduced by 43 percent — the determined negligence of Hinds — by the court.

Contract Freighters, also named in the suit, was dismissed earlier this week by District Judge Steven Adams. A trucker from that company was parked in front of the Warren Transport truck.

The jury awarded Hinds exactly what Taylor and John Norman, also representing Hinds, asked for — what Taylor described as "very unusual."

"The jury had a chance to hear all of the evidence, even that he had been drinking that afternoon," Taylor said. "... They want to send a message from Rogers County that we want the roads to be safe."

John Woodard, representing Warren Transport, disagrees.

"I was shocked and surprised — to say the least," Woodard said. "I felt we put on an excellent case and should have won."

Woodard said he "vigorously opposed" excluding the blood alcohol results from the trial.

"There were some contentious issues," Woodard said. "... We don't believe they (jurors) were allowed to hear all the evidence."

He said the case will be "closely reviewed before the end of the year" and may be appealed.

If Warren Transport appeals the

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Closing arguments

The 14-day trial slowed Friday afternoon when both parties gave their closing arguments.

Taylor described Hinds' condition as "helpless."

"While watching the recreation (video reconstruction) of the accident, that was the phrase my wife gave me," Taylor said. Then 16-year-old Melissa Grass, who witnessed the accident, painted the same picture.

"She said there was nothing he could have done," Taylor said.

"He was helpless at the scene, and now he's helpless for the rest of his life," Taylor said.

"I thought about how he said he wished he could scratch his own nose; brush his own hair," Taylor said. "... You can help him by helping him get the training and the rehabilitation."

Hinds' attorneys claimed the Warren Transport trucker broke five laws at the accident scene — parking on a bridge, parking on the traveled portion of the roadway, displaying dirty taillights, failing to display flashers and failing to display warning triangles.

"It was Warren Transport's duty to see that its drivers knew the laws," Norman said.

"This is the opportunity for you as Rogers County residents to say no more business as usual. Follow the law. Obey the law," Taylor said. "Your collective voice will be heard."

Taylor said Hinds never denied that he had been drinking beer the afternoon of April 29, 1988. He said the attending physician said he did not smell alcohol on Hinds' breath. Neither did several other witnesses, Taylor said.

"One picture is worth a thousand words, and words don't justify one picture," Norman said as he showed jurors a blown-up photograph of the accident scene.

"If you were the unalerted driver, would you be able to avoid this type of collision?" Norman asked.

Woodard closed by saying, "What they're telling you is Melissa Grass is totally accurate." The video reconstruction of the accident was created based on her testimony.

"There is no physical evidence to suggest that (she was right)," Woodard said.

"It's like my son trying to take a deck of cards and build a house," Woodard said. If the teenager's speed or distances were slightly off, "It's like pulling the cards out of the bottom and they collapse."

"If the facts are not true, their reconstruction won't work."

Woodard said the truck driver "had no choice" but to park in the right lane of traffic. The situation of the accident in front of the truckers eliminated options.

"Had he taken to the shoulder, two lanes are now blocked."

Woodard reminded jurors that several jurors testified they saw four-way flashers displayed on the truck. He said the trucker had the choice to either first get on the CB radio and call for help or put out the warning triangles.

"It took him over a minute to get the flashers out and assemble them," Woodard said. "In that 60 seconds the accident had already occurred."

He said Hinds failed to take precautions.

"You have to be aware of what's going on in front of you, no matter what's going on in front of you," Woodard said.

He also said alcohol is an issue in the case. Witnesses found beer cans in Hinds' truck, and one witness — who first attended to Hinds — said he smelled an odor of alcohol on Hinds.

"Remember the old saying, if it looks, walks, talks, acts and sounds like a duck, it must be a duck," Woodard said. Hinds had admitted drinking earlier in the day.

"In this day and age ... there is a general unwillingness to accept the blame," Woodard said. "We look around and see if we can blame someone."

"When Scott Hinds looks around to see who he should blame, he need look no farther than the mirror," Woodard said softly.