



## Chamblee & Ryan, P.C., Prepared For Continued Winning Streak

Based on data collected by VerdictSearch Texas, a trusted source for verdict and settlement news and research for over 40 years, the Dallas-based law firm of Chamblee & Ryan, P.C., has enjoyed a winning trial record for many years. In the year 2005 alone, Chamblee & Ryan may have tried and won more lawsuits involving more amounts in controversy than perhaps any other firm in the state of Texas. Data from VerdictSearch Texas, a voluntary reporting service that attempts to collect verdict information from trials in Texas, shows that in 2005 only two other law firms appeared more often in the weekly VerdictSearch Texas publication, and those two firms are staff counsel for automobile insurance carriers. In 2004 and 2005 alone, Chamblee & Ryan tried a wide variety of cases, and a small sampling of verdicts from these recent years is included herein.

While Chamblee & Ryan has consistently achieved in the courtroom since its inception in 1998, the year 2005 was indeed a banner year for the firm. In 2005, Chamblee & Ryan prevailed in 14 jury trials. The firm's shareholders, Bill Chamblee, Jeff Ryan, Jeff Kershaw, Peter Anderson, Vernon Krueger, and Todd Allen, spent a significant amount of time last year in the courtroom representing the interests of businesses, a public official, and health care providers. In previous years, its lawyers have successfully represented and prevailed in the courtroom on behalf of over 50 clients including physicians, health care providers, trucking companies, banks, contractors, and other businesses in a wide variety of cases including products liability, premises liability, employment discrimination, medical malpractice, motor vehicle and truck accidents, and non-subscriber injuries. While Chamblee & Ryan primarily handles cases in state and federal courts in Texas, it also handles cases in other jurisdictions, as well as handling non-litigation matters with the Texas Workforce Commission and various medical licensing boards. In addition to its litigation specialty, Chamblee & Ryan is a full service law firm offering its clients legal services in the areas of family law, wills and estate planning, employment law, and appellate law.

Preparation, preparation, and more preparation pave the way for the courtroom success of Chamblee & Ryan. If a case cannot be honestly and fairly resolved outside litigation or during the litigation process, Chamblee & Ryan is prepared to take the case to the courtroom and present often-complicated issues in terms that juries can relate to and understand. Standing up for their clients is something these lawyers have welcomed, enjoyed, and taken to heart over the years, and they are prepared to continue that successful trend.



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INTENTIONAL TORTS

Defamation, Intentional Torts – Libel, Intentional Torts – Slander

City councilman subject of malicious e-mails by activist

VERDICT (P) \$727,100
CASE Gary Kloepper v. Paul LeBon, No. 2003-50338-367
VENUE Denton County District Court, 367th, TX
JUDGE Lee Gabriel
DATE 02-17-2005
PLAINTIFF ATTORNEY(S) Jeffery M. Kershaw; Chamblee & Ryan; Dallas, TX, for Gary Kloepper
DEFENSE ATTORNEY(S) William Trantham; Law Office of William E. Trantham; Denton, TX, for Paul LeBon

FACTS & ALLEGATIONS In 2001 and again in 2003, plaintiff Paul Kloepper, about 42, was elected to a two-year term on the city council of Highland Village. A proposal existed to extend F.M. 2499 through Highland Village, and Kloepper supported the proposal. Paul LeBon was head of a group formed to oppose it. In April 2003, the group asked Kloepper for his support, and he declined. From May through August 2003, negative e-mail messages about Kloepper began circulating in the close-knit community of Highland Village.

Kloepper sued LeBon for slander and libel, alleging that LeBon made nine defamatory statements about Kloepper, orally and by e-mail, including a statement that Kloepper was being investigated by the FBI. Kloepper alleged that all the statements were false.

The e-mails came from LeBon's computer.

LeBon denied making all but one of the statements—the one about the FBI investigation. He maintained that the FBI did contact him during an investigation of Kloepper. He also maintained that, although he did not make the other statements, some of them were true.

LeBon further argued that most of the e-mails were either tampered with after being sent or were sent by someone who had hacked into his computer. Some were signed with LeBon's name, and some were not.

LeBon further asserted that Kloepper had forwarded and therefore published some of the e-mails himself. Kloepper denied this assertion.

Some of Kloepper's witnesses said that LeBon had made similar false statements about them; one testified that he spent \$6,000 on lighting around his house, out of concern that LeBon might do him harm.

INJURIES/DAMAGES The statements included an indication that Kloepper had been investigated by the FBI, several statements that Kloepper had had adulterous affairs, and a statement that Kloepper had used illegal drugs. Kloepper claimed an unspecified amount of damages for damage to reputation, mental anguish, inconvenience and loss of society.

Because of the defamatory statements, Kloepper alleged, his children were teased at school, people treated him with suspicion, and even close friends of the family started treating them differently.

RESULT The jury found that LeBon, and not Kloepper, published seven of the nine statements to third parties. The jury was asked whether those seven statements were false, and it found that they were. Actual damages were \$427,100, and punitive damages were \$300,000, the jury found.

For publishing a false statement that Kloepper had sexual relations with LeBon's wife's former secretary, the jury found \$10,000 mental anguish, \$1,000 loss of society, \$100 inconvenience, and \$5,000 injury to reputation.

For publishing a false statement that Kloepper kissed a woman not his wife on Aug. 19, 2003, the jury found \$15,000 mental anguish, \$5,000 loss of society, \$1,000 inconvenience, and \$10,000 injury to reputation.

For publishing a false statement that Kloepper had an adulterous affair with a girl from his church, the jury found \$35,000 mental anguish, \$25,000 loss of society, \$5,000 inconvenience, and \$15,000 injury to reputation.

For publishing a false statement that Kloepper was a statutory rapist, the jury found \$50,000 mental anguish, \$50,000 loss of society, \$30,000 inconvenience, and \$50,000 injury to reputation.

For publishing a false statement that Kloepper used marijuana and cocaine, the jury found \$1,000 mental anguish, \$1,000 loss of society, \$1,000 inconvenience, and \$5,000 injury to reputation.

For publishing a false statement that persons offered LeBon \$300,000 to change his position on 2499, the jury found \$5,000 mental anguish, \$1,000 loss of society, \$1,000 inconvenience, and \$5,000 injury to reputation. The jury found that LeBon acted with actual malice in publishing this false statement.

For publishing a false statement that Kloepper had been the subject of an FBI investigation, the jury found \$15,000 mental anguish, \$30,000 loss of society, \$5,000 inconvenience, and \$50,000 injury to reputation. The jury found that LeBon acted with actual malice in publishing this false statement.

The jury assessed \$300,000 in punitive damages against LeBon.

The jury did not find publication of a statement that Kloepper had two mistresses and forced them to have abortions. Also, the jury did not find publication of a statement that Kloepper had extramarital sexual relations while in St. Louis for his father-in-law's funeral.

DEMAND \$15,000, an apology and a sworn statement that the subject statements are false (Kloepper also offered to return the money if LeBon would refrain from mentioning his name for 10 years, said Kloepper's attorney, whereas defense counsel said that Kloepper demanded that LeBon stay completely out of Highland Village politics and the 2499 dispute for 10 years)

OFFER None reported

EXPERT(S) None reported

## GREGG COUNTY

### MEDICAL MALPRACTICE

**Hospital, Medical Malpractice – Failure to Monitor, Medical Malpractice – Nurse, Medical Malpractice – Post-Operative Care**

## Woman broke arm, went to hospital, suffered brain injury

**VERDICT** **Defense**  
**CASE** Charleen Worsham and Warren Worsham v. Good Shepherd Medical Center, No. 2003-1985-CCL2  
**VENUE** Gregg County Court at Law #2, TX  
**JUDGE** Alfonso Charles  
**DATE** 08-18-2005

**PLAINTIFF**  
**ATTORNEY(S)** Andrew M. Gross; Andrew M. Gross, M.D., J.D., P.C.; Dallas, TX, for Charleen Worsham  
William H. Liebke; Law Offices of Bill Liebke; Tyler, TX, for Charleen Worsham

**DEFENSE**  
**ATTORNEY(S)** Jeffrey W. Ryan; Chamblee & Ryan; Dallas, TX, for Good Shepherd Medical Center  
Ken Cunningham; Good Shepherd Medical Center; Longview, TX, for Good Shepherd Medical Center

**FACTS & ALLEGATIONS** On Aug. 25, 2002, plaintiff Charleen Worsham, 47, an administrator at a college in Kilgore, fell on a boat ramp and sustained a compound fracture of the arm. She went to the emergency room of Good Shepherd Medical Center, in Longview, and had surgery. At about 3 a.m., she was moved from the post-anesthesia care unit to the orthopedic floor. At about 7 a.m., she suffered respiratory arrest, and a code was called. She was resuscitated, and about a week later, she was discharged.

Worsham and her husband sued the hospital, claiming that its negligence caused her to sustain an anoxic brain injury. The plaintiffs alleged that the nurse on the floor failed to properly monitor and assess Worsham, including failing to use pulse oximetry continuously. (Pulse oximetry monitors oxygen saturation.)

The plaintiffs also took the position that the cause of the respiratory arrest was morphine. They argued that, although the amount given was appropriate, the drug is known to cause respiratory depression, and that Worsham therefore should have been monitored more closely.

The defense contended that the cause of the respiratory arrest was unknown.

The surgeon testified that continuous pulse oximetry was not warranted and that frequent checks of the patient's vital signs were all that was needed. The nurse testified that she followed the surgeon's instructions.

**INJURIES/DAMAGES** Worsham claimed that it is now hard for her to learn new things, that she has short-term memory loss, and that, as a result, she is depressed. Because of the respiratory arrest, she spent a week in the hospital, rather than a day. She followed up with a neurologist and a neuropsychologist. Her past medical bills were about \$50,000. She also claimed past physical pain and mental anguish. She

claimed lost earning capacity; her supervisor testified that he has serious concerns about Worsham's ability to do her job, and that she is no longer the same person she was before the incident. She was making about \$70,000 a year. Her husband claimed loss of consortium. Their attorney suggested a \$5 million total award.

The defense argued that Worsham may have suffered a concussion when she fell, which may be causing her memory problems.

**RESULT** The jury did not find the hospital negligent. Damages were conditioned and not answered.

**PLAINTIFF**  
**EXPERT(S)** Alexander Shepherd Ph.D.; Pharmacology; Austin, TX called by: Andrew Gross, William Liebke  
Ruthie Robinson R.N.; Nursing; Beaumont, TX called by: Andrew Gross, William Liebke  
William Perkins M.D.; Neurology; Longview, TX called by: Andrew Gross, William Liebke  
Stephen Martin; Neuropsychology; Tyler, TX called by: Andrew Gross, William Liebke

**DEFENSE**  
**EXPERT(S)** Sandi McDermott R.N.; Nursing; Dallas, TX called by: Jeffrey Ryan, Ken Cunningham  
Kenneth Reesor M.D.; Orthopedic Surgery; Longview, TX called by: Jeffrey Ryan, Ken Cunningham

## GRAYSON COUNTY

### WORKPLACE

**Torts – Electric Shock**

## Plaintiff claimed electrical shock felled him from ladder

**VERDICT** **Defense**  
**CASE** Brian Fisher v. Paul Pogue, Inc., and Taylor S. Enterprises, Inc., d/b/a R. Taylor Electric, No. 98-0466  
**VENUE** Grayson County District Court, 336th, TX  
**JUDGE** Ray F. Grisham  
**DATE** 10-14-2004

**PLAINTIFF**  
**ATTORNEY(S)** Gary Corley; Stagner & Corley; Sherman, TX, for Brian Fisher  
David M. Stagner; Stagner & Corley; Sherman, TX, for Brian Fisher  
Ron W. Walton; Law Offices of Roger D. Walton; Arlington, TX, for Brian Fisher

**DEFENSE**  
**ATTORNEY(S)** M. Todd Allen; Chamblee & Ryan; Dallas, TX, for Paul Pogue Inc.  
Wayne Gordon; Touchstone, Bernays, Johnston, Beall, Smith & Stollenwerck; Dallas, TX, for Taylor S. Enterprises Inc.

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**FACTS & ALLEGATIONS** On Aug. 20, 1996, plaintiff Brian Fisher, 35, a wire installer and technician for a phone-cable contractor, was working at a school construction site in Sherman. He alleged that he received an electrical shock from live wires above a ceiling grid, causing him to fall from a ladder. The general contractor was Paul Pogue Inc., and the electrical contractor was R. Taylor Electric.

Fisher sued Paul Pogue Inc., of McKinney, and Taylor S. Enterprises Inc., operating as R. Taylor Electric, of Sherman, for negligent failure to perform lock-out tag-out of the electrical control panels, pursuant to OSHA regulations.

The defendants, denying that Fisher was shocked, argued that he fell off the ladder because he failed to exercise due care. According to the defendants, the wires were not energized, because the circuit was not yet complete and tied to an electrical control panel; therefore, lock-out tag-out was unnecessary, the defendants argued.

**INJURIES/DAMAGES** Fisher claimed that he was shocked and fell off a ladder. He worked for a few more days, then stopped.

He claimed that the current entered his head and exited his right palm. His treating neurologist testified that Fisher had several transient ischemic episodes more than five years later that may have been caused by the shock. Fisher also claimed a variety of neurological and psychological problems, including depression, loss of concentration and memory loss. He received disability benefits because of his depression. His workers' compensation lien was \$80,000, for medical care and income benefits. He sought about \$500,000 for his future life care needs and lost earning capacity. He asked for \$1 million total.

The defendants contended that Fisher simply fell off the ladder and hit his head, which may have caused his cognitive deficits, if he had any. Fisher's medical history was inconsistent and lacked objective evidence of an electrical shock injury, the defendants argued.

No entry wound was found. The defendants' wound care expert, Charles Baxter, M.D., said that a wound in Fisher's right palm was a puncture wound, not a burn exit wound.

**RESULT** The jury did not find either defendant negligent, but did find Fisher negligent.

Fisher injected his workers' compensation and social security disability benefits and the resulting liens into the trial.

Fisher was impeached on his testimony in many areas, including work history, medical history, and a subsequent motor vehicle accident, said defense counsel.

**DEFENSE EXPERT(S)** Charles F. Baxter M.D.; Electrical Shock; Dallas, TX called by: M. Allen, Wayne Gordon  
William Osborne M.D.; Occupational Medicine; Dallas, TX called by: M. Allen, Wayne Gordon

**UNITED STATES DISTRICT COURT DALLAS**

**EMPLOYMENT**

**Race Discrimination, Employment – Wrongful Termination, Discrimination – Race, Employment – Retaliation**

**Salesman claimed promotion denied because of race**

**VERDICT CASE** **Defense**  
Alfred Emerson Record v. Central Freight Lines, Inc., No. 3:02-CV-136-G  
**VENUE** United States District Court, Northern District, Dallas, TX  
**JUDGE** Joe Fish  
**DATE** 03-08-2004

**PLAINTIFF ATTORNEY(S)** Cheryl Whatley; The Law Office of Cheryl Whatley; for Alfred Emerson Record

**DEFENSE ATTORNEY(S)** Brandee Todd; Chamblee & Ryan; Dallas, TX, for Central Freight Lines Inc.  
Jeff Ryan; Chamblee & Ryan; Dallas, TX, for Central Freight Lines Inc.

**FACTS & ALLEGATIONS** Plaintiff Alfred Emerson Record, a salesman, was terminated by Central Freight Lines in early 2001 after ten years with the company. Record, who is black, applied for a promotion in 2000 but did not receive it. He thereafter went on medical leave for six months, and in the interim filed a complaint with the EEOC alleging racial discrimination. By the time Record returned, Central Freight had hired someone for his position. He was terminated shortly thereafter.

Record sued Central Freight Inc., Waco, for racial discrimination and retaliation. Record alleged that he was passed over for the promotion due to his race, and further alleged that his termination was in retaliation for his EEOC complaint.

Central Freight denied Record's allegations. The company argued that Record was not promoted because one of the applicants for that job was more qualified. The company contended that it had his position open as long as it could, and that it attempted to make an accommodation with him when he returned. The company also contended that Record had returned to work from medical leave with a typed resignation letter in his pocket, and that he had received more benefits because he was terminated than he would have had he simply resigned.

**INJURIES/DAMAGES** Record claimed damages for lost wages, and also sought punitive damages.

**RESULT** The jury rendered a verdict for Central Freight.

**EXPERT(S)** None reported

