

# Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

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## Comprehensive Statewide Jury Verdict Coverage

### Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts including circuit, division, presiding judge, parties, case number, attorneys and results.

**Auto/Truck Negligence - A forest fire adjacent to the Mountain Parkway near the Slade exit led to a thick wall of smoke that limited visibility – this in turn resulted in a 13 vehicle pile-up – in the single case (out of complex litigation and multiple parties) that survived to trial, a driver that rear-ended a trucker blamed that trucker (the trucker was killed when he stepped from his coal truck) and another motorist for stopping in the roadway and causing the crash – the two defendants blamed the plaintiff for the rear-end crash, a Stanton jury exonerating them at trial**

*Henson v. Turner et al*, 16-226

Plaintiff: Jarrod O. Bentley, *Morgan & Morgan*, Prestonsburg

Defense: Melissa Thompson Richardson and David G. Noble, *WMR Defense*, Lexington for Turner and Bowling Trucking  
Gordon B. Long, Salyersville for Neff

Verdict: Defense verdict on liability

Court: **Powell**, J. Fletcher,  
11-15-18

There was a forest fire near the Mountain Parkway on the morning of 11-16-16. There was a sign at the top of a hill on the parkway warning oncoming traffic that there was smoke in the area. Against this backdrop, there was testimony that a

thick wall of smoke suddenly appeared and visibility on the parkway near the Slade exit in Powell County was very limited.

Charles Turner was driving a coal truck for Bowling Trucking and came upon stopped traffic. He was driving at 15-20 mph before he began to brake. Photographs indicated he was also veering to the left to avoid traffic.

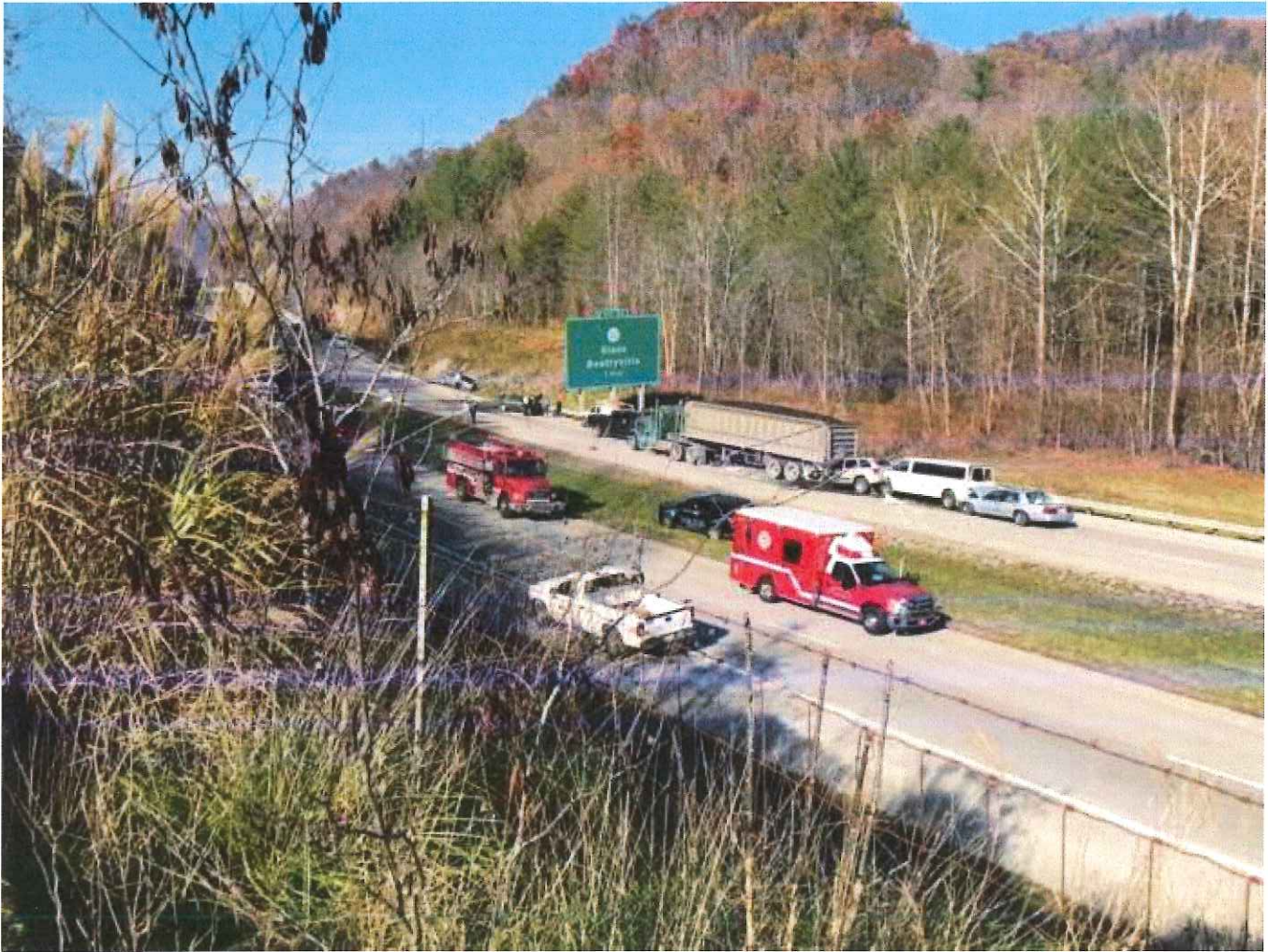
An instant later Turner's coal truck was rear-ended by Edwin Henson. Henson was driving a Jeep Cherokee as pictured on page three – it smashed hard into Turner's truck at some 55 mph. Henson was then rear-ended by a medical van, the van then being hit by another driver.

Just ahead of Turner on the roadway was Gene Neff. The elderly Neff, who played on Kentucky's 1952 basketball team (he was a reserve forward on the No. 1 ranked Wildcats

who lost in the NCAA East regional), had come to a stop in the smoky conditions. [The jury did not know of Neff's basketball past.] Neff was not involved in the accident.

Moments after Henson struck the Turner truck, Turner exited his truck to check on Henson. As Turner was standing in the roadway, he was struck by yet another motorist who was passing through the area. Turner was killed. Neff would recall Turner's body flying past him on the roadway. Neff then squeezed through traffic and drove a half a mile or so ahead. He then pulled into the median to warn oncoming traffic about the accident scene. In all 13 vehicles were involved in the initial crash, the parkway remaining closed the entire day.

This set of facts generated an enormous amount of litigation. There were complaints, amended



*The view of the crash: Turner's coal truck is pictured with Henson's Jeep having rear-ended it*

complaints, intervening complaints and counterclaims. By the time of trial, there was just one claim remaining. It was presented by Henson against Turner and his trucking employer and Neff. Turner's estate had settled all its claims as plaintiff.

Henson's theory was critical of Turner for driving into the smoky conditions. It was argued that a reasonably prudent trucker would have heeded the warning about the smoky conditions and otherwise come to a stop before reaching the smoky black-out conditions.

Neff too was blamed for coming to a stop in the roadway. Interestingly, Neff would likely never have even

been a party to this action as he did not physically contact any other vehicles. However in the days after the accident, Neff had called Turner's widow to thank Turner for saving his life in bringing his coal truck to a near stop and avoiding striking his vehicle.

If Henson prevailed at trial, he sought medical bills of \$81,740. He could take \$500,000 for both past and future suffering. Henson's injuries included numbness in his arm, hand and knee – there was significant dashboard intrusion. Henson also has a permanent knot on his sternum.

Henson's most significant injury, as testified to by his family and

friends, was the emotional turmoil and change the collision generated. Henson was previously described as

"happy go lucky", the crash leaving him more quiet and remote.

Turner and Neff denied fault for the crash and noted that they both were able to come to a stop or near



*Neff in action for UK in '52*



*Melissa Thompson  
Richardson for the defense*

stop. They also disputed the sudden nature of the smoky hazard, noting the warning sign.

A defense accident expert, Kenneth Agent, Lexington, testified about the wreck and noted that even if Turner and Neff had not been present, Henson still would have crashed into another vehicle. This tied to a defense theme: What would Turner and Neff have done differently other than come to a stop or near stop in the smoky conditions as there was a previously wrecked vehicle obstructing his lane and traffic continuing in the left lane?

As the case was tried to a jury in Stanton, the jury could assess fault to the remaining parties (Henson, Turner and Neff) as well as to five non-parties who were on the scene. The jury resolved the issue short of that by unanimously exonerating both Turner and Henson. At the time of this report, no judgment had been entered.