

Auto Negligence - In a case involving a minor rear-end collision (the defendant had fallen asleep) where there was no injury reported at the scene, a Prestonsburg jury rejected the claim on causation

Maynard v. Hall et al, 13-713

Plaintiff: Thomas W. Moak, *Moak & Nunnery*, Prestonsburg

Defense: Melissa Thompson Richardson and Anthony M. Pernice, *Walters Meadows Richardson*, Lexington

Verdict: Defense verdict on causation

Court: **Floyd, J. Smith**,
3-9-15

Jordan Hall worked for Benetech Mining Materials (it is a family business) and was driving a company vehicle on 12-11-11. He traveled on U.S. 23 in Floyd County. It was a Sunday afternoon and he was returning from a meeting with a client with whom he attended church.

Hall didn't realize that apparently he was very sleepy. While driving the vehicle he nodded off. An instant later he rear-ended a vehicle driven by Margie Maynard. The collision resulted in minor damage and there was no injury reported at the scene.

Maynard has since treated for a soft-tissue neck and back injury. Her medical bills were approximately \$23,000. In this lawsuit she sought damages from Hall and his employer. The court granted the plaintiff's motion for summary judgment on liability. If Maynard prevailed she sought her medical bills as well as past and future suffering.

Hall and Benetech Mining (it is now defunct) defended and minimized the claimed injury. They noted there was no injury at the scene and Maynard did not begin treating until several days later. The

defense also relied on an orthopedic IME, Dr. David Jenkinson, Ashland.

Fault having been resolved by the court, the jury considered damages only. However the jury first answered for the defense that the accident was not a substantial factor in causing the plaintiff's injuries. That ended the deliberations and Maynard took nothing.

A consistent defense judgment closed the case. It is learned the defendant had tendered a \$10,500 offer of judgment a few months before trial. This was also Judge Tom Smith's first jury trial on the bench.