

## SOUTHEAST/NORTHEAST

Dansby demanded fair compensation for the taking. In addition, to obtain a clear title, it became necessary for the city to add the estate of Dansby's late wife Effie.

Judge Gray Michael Block appointed a three-member panel of special commissioners to propose fair compensation for the taking.

**INJURIES/DAMAGES** Dansby and his late wife's estate sought compensation for the taking of their property.

The city's real estate expert advised the commissioners that the property was worth \$3,755.

**RESULT** Dansby and his son represented defendants at a hearing before the court. The commissioners accepted the advice of the city's expert, and all parties agreed.

The court rendered judgment that the city take the land and compensate the defendants in the amount of \$3,755.

**PLAINTIFF**

**EXPERT(S)** Travis Cooper, appraisal, Houston, TX

**DEFENSE**

**EXPERT(S)** None reported

**EDITOR'S NOTE** This report is based on information that was provided by counsel for the city. Pro se defendants were not asked to contribute.

—Don Maines

**NORTHEAST****ANDERSON COUNTY****AGENCY/APPEARANT AGENCY**

**Firearms — Respondeat Superior — Premises Liability**

## Man went to store to buy hot dog and was accidentally shot

**VERDICT** **\$750,000**

**CASE** Gary Williams v. Philip Chang, Herman Glass, Glass Texaco Distributors Inc., Motiva Enterprises L.L.C., and Borders & Long Oil Inc.

**COURT** Anderson County District Court, 369th, TX

**JUDGE** Deborah Evans

**DATE** 4/11/2007

**PLAINTIFF**

**ATTORNEY(S)** Jeffrey T. Embry (lead), Hossley & Embry, L.L.P., Tyler, TX

Preston W. McGee, Flowers Davis L.L.P., Tyler, TX

Jack Strother, Hossley & Embry, L.L.P., Tyler, TX

**DEFENSE**

**ATTORNEY(S)** Julie P. Wright, Flowers Davis L.L.P., Tyler, TX

**FACTS & ALLEGATIONS** On April 26, 2004, plaintiff Gary Williams, a 42-year-old car detailer, entered a Texaco Station in Frankston to buy a hot dog. The station's attendant, Philip Chang, was at the counter, talking about hunting with a customer. He was showing he customer two pistols that he kept at the station for protection. As Williams was approaching the counter to pay, a .22-caliber pistol accidentally discharged and struck his left side.

Claiming negligence, Williams sued Chang, Herman Glass, the station's owner, and Glass' company, Glass Texaco Distributor. He also sued Motiva Enterprises, which is owned by Texaco and was a party based on apparent agency, and Borders & Long Oil, which was allegedly involved in the Texaco business. Williams asserted employer/employee, principal/agent, apparent agency, joint venture, partnership, joint enterprise, premises liability and third-party beneficiary breach of contract claims against the defendants.

Williams claimed that Chang was negligent. He claimed that Glass and his company owned the Texaco Station and that Glass had negotiated a deal with Chang in which Chang would be Glass' agent and operate his gas station in exchange for Chang's right to sell concessions.

Chang admitted Williams' allegations and noted that he believed he worked for Glass. Glass contended that his relationship with Chang was purely a landlord/tenant agreement and that Chang was not working in the course and scope of an agency relationship. Glass claimed that he rented the premises to Chang. Borders & Long and Motiva also denied any responsibility.

Herman Glass died in January 2007. The representatives of his estate appeared as defendant at trial.

**INJURIES/DAMAGES** *kidney*

The bullet tore Williams' colon, bruised his kidney and came to rest near his spine. He was hospitalized for 10 days and underwent surgery to repair his injuries. Doctors left the bullet in his back because it was so close to his spinal cord that removing it was deemed too risky. His medical bills totaled \$97,500. He claimed that he will be under a doctor's care for his injuries for the rest of his life.

Williams claimed that he could no longer work due to his pain, and he sought lost wages based on his pay at the time of the injury of \$7.50 an hour. He also sought an unspecified amount for pain and suffering.

The defense contended that Williams was able to work.

**RESULT** All claims but the principal agent and negligence claims against Herman Glass and Glass Texaco Distributors were either dismissed or not found applicable by the court or jury. Borders & Long and Motiva were granted a directed verdict and dismissed from the case. The jury found that an agency relationship existed between Chang, Glass and Glass Texaco Distributors and that Chang was working in the course and scope of that relationship when Williams was shot.

The jury allotted 75% of the blame on Chang, 15% on Glass and 10% on Glass Texaco Distributors. It found that Chang was an agent acting in the course and scope of the agency relationship, and Glass Texaco was thus liable for the entire judgment.

**GARY WILLIAMS** \$50,000 past medical cost  
\$100,000 future medical cost  
\$15,000 past physical impairment  
\$40,000 future physical impairment  
\$35,000 past lost earnings  
\$500,000 future lost earnings  
\$10,000 past pain and suffering  
\$750,000

**DEMAND** \$400,000

**TRIAL DETAILS** Trial Length: 3 days  
Trial Deliberations: 4 hours  
Jury Vote: 11-1  
Jury Composition: Six male, six female

**PLAINTIFF  
EXPERT(S)** Kenneth Kemp, Dr., pain management,  
Tyler, TX

**DEFENSE  
EXPERT(S)** None reported

**POST-TRIAL** A judgment has not yet been entered. Defendants have filed a motion to disregard certain jury findings. The defense intends to appeal if the court enters a judgment against them for any amount.

**EDITOR'S NOTE** This report is based on information provided by plaintiff's and defense counsel.

—William Cresenzo

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## CASS COUNTY

# VERDICT of the WEEK

### ASSAULT

**Intentional Torts — Conspiracy — Negligence**

## Mentally disabled black man beaten, dumped along road

**VERDICT** \$9,015,146

**CASE** Billy Ray Johnson, through Next Friend  
Lue Wilson v. Christopher Colt Amox,  
James Cory Hicks, Dallas Chadwick Stone,  
and John Wesley Owens, No. 05C534

**COURT  
JUDGE  
DATE** Cass County District Court, 5th, TX  
Ralph K. Burgess  
4/20/2007

**PLAINTIFF  
ATTORNEY(S)** Morris Dees (lead) (pro hac vice),  
Southern Poverty Law Center,  
Montgomery, AL  
Kelley Bruner (pro hac vice), Southern  
Poverty Law Center, Montgomery, AL  
Glenn Perry (pro bono), Sloan, Bagley,  
Hatcher & Perry Law Firm, Longview, TX

**DEFENSE  
ATTORNEY(S)** Pro se

**FACTS & ALLEGATIONS** On the night of Sept. 28, 2003, plaintiff Billy Ray Johnson, 42, a mentally disabled black man, was picked up in Linden and taken to a "pasture party" in rural Cass County, where about a dozen people were sitting on tailgates drinking beer. After teasing and taunting Johnson, four men allegedly began talking about beating him up. Christopher Amox, 20, a former high school pitcher who was twice Johnson's size, punched him in the face, knocking him unconscious. Instead of taking Johnson to the hospital, Amox and James Hicks, 24, a jail employee, along with Dallas Stone, 18, and John Owens, 19, threw Johnson into the back of a pickup and dumped him by the side of a remote rural road.

The Southern Poverty Law Center (SPLC) in Montgomery, Ala., brought suit on Johnson's behalf against Amox, Hicks, Stone and Owens, alleging that (1) Amox assaulted plaintiff; (2) Amox and Hicks conspired to assault plaintiff; and (3) all four defendants were negligent in their actions toward plaintiff, leaving him for dead in the cold morning hours.

Stone and Owens settled for undisclosed amounts.

Hicks and Amox denied liability for Johnson's injuries.