

**Tommy Keith Newlin v. Tom Godwin, James Glen Greer,
Exxon Mobil Corp., Harris County, Harris County Flood
Control District, Wendy Godwin Holley, and Wesley Godwin;
2013 Jury Verdicts LEXIS 3114**

2011-12286

March 12, 2013

Headline: Cow Wandered Onto Road and Was Hit by Motorcyclist

Published Date: April 15, 2013

Topic: Animals - Animal control - Motor Vehicle - Animal - Motor Vehicle - Motorcycle

Injury: Fracture, Jaw, Fracture, Facial Bone, Fracture, Nose, Internal Fixation, Plate, Hardware Implanted

Practice Area: Unknown

State: Texas

Court: Harris County District Court, 215th

Plaintiff Counsel

Lansford O. Ireson

Firm Name: Ireson & Weizel

Address: Houston, TX

Plaintiff Name: (Tommy Keith Newlin)

Tanner Garth

Firm Name: The Garth Law Firm

Address: Houston, TX

Plaintiff Name: (Tommy Keith Newlin)

Defendant Counsel

Glenn J. Fahl

Firm Name: Fahl & Takeuchi

Address: Houston, TX

Defendant Name: (Tom Godwin, Wendy Godwin Holley, Wesley Godwin)

Ben Norrell

Firm Name: Fahl & Associates

Address: Houston, TX

Defendant Name: (Tom Godwin, Wendy Godwin Holley, Wesley Godwin)

James Glen Greer

Firm Name: pro se

Defendant Name: (James Glen Greer)

Judge: [Elaine Palmer](#)

Case Summary

At about 4:30 a.m. on Oct. 25, 2010, plaintiff Tommy Keith Newlin, about 50, a refinery operator, was motorcycling south on Red Bluff Road, about a half mile south of Fairmont Parkway, in Pasadena. He saw some cattle crossing the road, and he braked. He skidded about 70 feet, hit a cow, and was thrown from his bike. The bike continued about another 75 feet. Tom Godwin and James Glenn Greer each owned some cattle in the area. The Harris County Flood Control District and Exxon Mobil Corp. owned some nearby property, and Newlin claimed that Godwin owned or controlled some, as well. At-large cattle had been a problem on Red Bluff for years.

Newlin sued Godwin, two of Godwin's adult children, Harris County, the flood control district, Exxon Mobil, and Greer for negligence under common law and Harris County's livestock law, which provides that a person who owns, controls, or has responsibility for a head of cattle may not permit the head of cattle to run at large.

The court granted Newlin a spoliation instruction. Greer testified that the cow had no brand, but Newlin argued that, during the accident investigation, Godwin and Greer dragged the cow from the road onto a grazing lease of Godwin's and hid it until scavengers could get rid of the carcass.

Exxon Mobil settled for a confidential amount about 1.5 years before trial. The Harris County defendants were dismissed on summary judgment in 2012. Godwin's adult children were nonsuited about a week before trial, and Greer was nonsuited just before trial.

At trial, Newlin claimed that Godwin owned the cow and that he either owned or controlled the property or grazing lease from which the cow had escaped. Newlin claimed that Godwin alone was at fault.

Godwin denied that the cow was his and denied that it came from property he owned or controlled. He argued that, earlier in 2010, the flood control district had improperly removed a fence from someone else's grazing lease, resulting in the accident. However, the court would not allow Godwin to designate the county defendants as responsible third parties.

Godwin also argued that Newlin failed to keep a proper lookout on his motorcycle.

Regarding the road's past problems with at-large cattle, the defense argued that there was no evidence of who owned those cattle.

Injury Text:

Newlin sustained a broken jaw, a broken nose, and other facial fractures. He also claimed aggravation of pre-existing ringing in the ears.

The plaintiff was in the hospital for four or five days and underwent open reduction and internal fixation (with plates) of the facial fractures. His jaw was wired shut for about a month. He followed up with an oral surgeon, who performed a revision procedure on the jaw.

Newlin's past medical bills were stipulated at about \$86,000. He claimed that he may need about \$3,000 to \$7,000 in future dental work.

The plaintiff's wife testified that, to her, his face looks completely different from before.

Newlin testified that he cannot chew meat, including steak, one of his favorite dishes. Also, he said, when he eats soup, it dribbles from the corner of his mouth, because he is numb in one area around the mouth.

The plaintiff earned about \$33 an hour, and he missed four months of work. He sought about \$40,000 in past lost earning capacity. He sought about \$25,000 as the fair market value of his Harley Davidson motorcycle, which was totaled.

Newlin sought damages for past and future medical bills, past property damage, past and future physical pain and mental anguish, past lost earning capacity, past and future disfigurement, and past and future physical impairment.

In closing argument, plaintiff's counsel asked for a total of more than \$1 million.

The defense argued that Newlin was also blaming his sleep apnea, snoring, headaches, and insomnia on the accident and that those conditions, along with his tinnitus, were pre-existing.

Newlin was not wearing a helmet, but no mention of it was allowed at trial.

Trial Length

5.0 days

Jury Deliberation

4.0 hours

Jury Poll

11-1

Post Trial Status

Plaintiff plans to file a motion for new trial.

Insurer:

American Reliable Insurance Co. for Tom Godwin

Plaintiff Expert(s)

[David Wainwright](#)

Address: Houston, TX

Specialty: Plastic Surgery/Reconstructive Surgery

Affiliation: video depositiontreator, Tanner Garth, Lansford Ireson

[Terry Taylor, M.D.](#)

Address: Houston, TX

Specialty: Oral Surgery

Affiliation: treatervideo deposition, Lansford Ireson, Tanner Garth

Award: \$ 0

Award Details: The jury found no negligence by Godwin or Newlin.

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Texas Reporter Vol. 13