

# Mississippi Litigation Update

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## MGC Defense Wins in Mississippi Brain Injury Case

MGC's Mississippi office obtained summary judgment for the Defendants in a commercial vehicle accident case in Pearl River County, Mississippi. Plaintiff sustained a permanent brain injury and was claiming over \$16,000,000 in damages.

Plaintiff could not recall the accident. Defendant driver and an independent witness testified that the Plaintiff crossed the centerline on a two-lane highway, causing the accident. Plaintiff, through an accident reconstruction expert, attempted to establish that the physical evidence was inconsistent with the eye witness testimony. However, Plaintiff's expert was unable to present an alternative theory of causation.

MGC filed a Motion to Exclude Plaintiff's accident reconstruction expert and a Motion for Summary Judgment, arguing that Plaintiff could not meet his burden of proof at trial by merely refuting Defendant's version of the accident. Rather, Plaintiff must present affirmative, admissible evidence that Defendant caused the accident. Because Plaintiff's expert's opinions were based upon mere "possibilities," his opinions were inadmissible. The Court granted the Motion for Summary Judgment as to all claims.

Notably, discovery revealed that Plaintiff had been involved in three automobile accidents in less than 72 hours (including the subject accident), and was arrested in Alabama after the 2<sup>nd</sup> accident for public intoxication. Plaintiff had a history of prescription drug abuse and filled three prescriptions the day before his string of three consecutive automobile accidents began. Additionally, "Phoria," a Kratom supplement, was found in Plaintiff's vehicle following the accident. Kratom is currently available over-the-counter at gas stations and "head shops," but is illegal in six (6) states and is currently being evaluated by the US DEA as a Schedule 1 controlled substance.

Plaintiff has not yet filed an appeal, but has additional time to do so. MGC is currently pursuing a Motion for Attorney's Fees and Costs against Plaintiff and his counsel under the Mississippi Litigation Accountability Act.

**MGC attorneys [Jay Atkins](#) and [Erica Lloyd](#) represent Defendants. Jay and Erica are located in the firm's Oxford, Mississippi office.**

**If you have questions regarding these updates, please contact one of [MGC's litigation attorneys](#).**

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