

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

AUSTIN E. JAMES,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 09-00254-KD-B
)	
BALDWIN BONE & JOINT, P.C.,)	
et al.,)	
)	
Defendants.)	

ORDER

This action came before the Court for jury selection on April 5, 2011, and trial by jury on April 18, 19, and 20, 2011, with United States District Judge Kristi K. DuBose presiding.

The jury was duly sworn and trial commenced on April 18, 2011.¹ Plaintiff Austin E. James presented his case-in-chief and rested on April 19, 2011. Defendants Baldwin Bone & Joint, P.C. and Rhett Hubley, M.D., moved for judgment as a matter of law at the close of Plaintiff's case and the motion (doc. 105) was **denied**. Defendants orally moved to dismiss Plaintiff's claim of wantonness and the motion was **denied**. Plaintiff orally moved to dismiss his claim of wantonness and the motion was **granted**.

Defendants then presented their case-in-chief and rested on April 19, 2011. Defendants renewed their motion for judgment as a matter of law at the close of all evidence and the motion (doc. 106) was **denied**. The Court held a final charge conference with counsel and recessed for

¹ In open court but outside the presence of the jury, the Court entered the following rulings upon motions carried to trial: Defendants' motion to strike certain damages (doc. 68), Defendants' motion in limine no. 4 (doc. 91), and Defendants' motion in limine no. 5 (doc. 92), were rendered **moot**. Defendants' amended motion in limine no. 3 (doc. 104) was **granted** in that this motion had been previously granted (*see* docs. 90, 101).

the afternoon of April 19, 2011.

On the morning of April 20, 2011, Court reconvened and the parties gave their closing arguments to the jury. The Court charged the jury on the applicable law and the jury commenced their deliberations. In open court, after the jury began their deliberation, Defendants made an oral motion for mistrial to which Plaintiff made his response. The Court, by oral order, denied the motion.

On April 20, 2011, the jury having heard the evidence, the arguments of counsel, the charge of the Court and having considered the same upon their oaths, the jury deliberated and returned the following verdict (a copy of which is attached hereto):

We, the jury, find in favor of the defendants, Dr. Rhett Hubley and Baldwin Bone & Joint, and against the plaintiff, Austin James.

By separate document, the Court will enter judgment in accordance with the verdict of the jury.

DONE and ORDERED this the 21st day of April, 2011.

s / Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE