

\$35 Million Verdict Against Springhill Medical Center for Death After Thumb Surgery

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\$35 Million Verdict Against Springhill Medical Center for Death After Thumb Surgery

On February 22, 2022, Cunningham Bounds obtained a \$35 million jury verdict for the family of a man who died at Springhill Medical Center following a successful surgery on his thumb.

Jay West cut the tip of his left thumb while using a table saw at his cabinet shop. He went to Springhill and was advised by an orthopedic surgeon that surgically amputating a small portion of his thumb was medically necessary. Following a successful surgery without any complications, the surgeon wrote an order authorizing up to four milligrams of IV Dilaudid (a powerful opioid) every three hours for pain management. Dilaudid carries an FDA-mandated "Black Box Warning" due to its potentially deadly side effect of causing respiratory depression and cardiopulmonary arrest. Mr. West was transferred to the hospital's orthopedic floor for the night and scheduled to go home the next day. However, less than 10 hours after surgery, Mr. West was found unresponsive and not breathing in his hospital room and could not be resuscitated.

Twenty-two months prior to his admission, the Joint Commission for Accreditation

of Healthcare Organizations (JCAHO) published a "Sentinel Event Alert" regarding the safe use of opioids in hospitals. Based on the recommendations set out in the Sentinel Event Alert, Mr. West should have been identified by hospital personnel as being at high-risk for opioid-induced respiratory depression, should have received serial respiratory monitoring, and should have been provided with continuous electronic monitoring of his oxygen saturation levels. Springhill did not implement any of those safety measures, and had not provided any training to its nursing staff on how to protect its patients from the known fatal dangers of post-operative IV opioids.

Prior to being found unresponsive, Mr. West had been given two four milligram doses of IV Dilaudid by his nurse in less than a two-hour period. After the second dose, Mr. West was not monitored by any of the nursing staff until he was found unresponsive almost four hours later.

At trial, Springhill defended its conduct by blaming the surgeon and an anesthesiologist. The hospital also hired witnesses who testified Springhill did nothing wrong.

"We appreciate the jury's verdict for the West family. We hope it will prompt the hospital to place a higher priority on the timely training of its staff to ensure patient safety. When Mr. West entered Springhill, healthcare facilities had known for years that certain patients were at high-risk of respiratory depression when given opioid medications. Springhill breached the standard of care by failing to have policies and procedures in place and by failing to train its staff appropriately," said Brian Duncan of Cunningham Bounds, who represented the family. Mr. Duncan tried the case with his law partners Robert Mitchell and David Wirtes.

"My children and I are so thankful for the jury and their verdict against the hospital. We hope no other family has to lose a husband and a father unnecessarily like we did because hospital staff are not properly trained," said Patricia West after the verdict was announced.

"All it would have taken was for the nursing staff to have simply placed an electronic pulse oximetry monitoring device on one of his fingers, and Mr. West would still be alive today," added Mr. Duncan.

Accolades



Brian Duncan was recently inducted into the International Society of Barristers. Membership is by invitation only which is preceded by a rigorous screening process that considers the lawyer's ability, experience, accomplishments and ethical standard as assessed by fellow trial lawyers and judges.



David Wirtes represented Cunningham Bounds as a presenter during the "Alabama Supreme Court Oral Arguments" CLE program presented by the Mobile Bar Association. He served as a panelist alongside several of Alabama's Supreme Court Justices addressing "The Dos and Don'ts of Appellate Advocacy."

Cunningham Bounds Earns Top Rankings in 2022 "Best Law Firms" by U.S. News – Best Lawyers®

Cunningham Bounds has been named a Tier 1 Metropolitan firm in Mobile, Alabama for the following practice areas:

- Appellate Practice
- Bet-the-Company Litigation
- Commercial Litigation
- Litigation - Banking & Finance
- Litigation - Bankruptcy
- Litigation - Construction
- Personal Injury Litigation - Plaintiffs
- Product Liability Litigation - Plaintiffs

Only law firms that scored the highest during an extensive review make it into the published edition of "Best Law Firms" each year. For a highly accurate list, firms are placed along three tiers according to their scores; Tier 1 is reserved for firms that scored exceptionally high during their review. To calculate these scores, a firm's impact, case results, client and peer feedback, and accessibility are thoroughly evaluated.

Cunningham Bounds Lawyers Named to 2021 Mid-South Super Lawyers

Twelve partners of Cunningham Bounds were recognized in the 2021 Mid-South edition of Super Lawyers magazine. Each year, no more than five percent of attorneys in the Mid-South (Alabama, Tennessee, Arkansas, and Mississippi) are selected by the Super Lawyers research team to receive this honor. The 2021 Mid-South Super Lawyers list includes the following partners of Cunningham Bounds: **Buddy Brown, Greg Breedlove, David Wirtes, Toby Brown, Skip Finkbohner, Steve Olen, Steve Nicholas, David Cain, Billy Bonner, Robert Mitchell and Lucy Tufts.** Super Lawyers also named **Aaron Maples** to its 2021 Rising Star list.

In addition, **Lucy Tufts** was named one of the 2021 "Top 50" Women in the Mid-South for Personal Injury General – Plaintiff by Super Lawyers. Super Lawyers, part of Thomson Reuters, is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. The annual selections are made using a patented multiphase process that includes a statewide survey of lawyers, an independent research evaluation of candidates, and peer reviews by practice area. The result is a credible, comprehensive, and diverse listing of exceptional attorneys.

LEGALUPDATE
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When an Aviation Accident Occurs, Our Attorneys Have the Experience Necessary to Help You



During the past century, air travel has transformed the world around us. Whether for business or recreation, billions of people use air travel each year. Unfortunately, despite modern advances in aviation technology, accidents and crashes continue to occur resulting in tragic consequences.

The attorneys of Cunningham Bounds have decades of experience representing victims and families affected by airplane and helicopter crashes. Our cases have encompassed all three sectors of the aviation industry: commercial, general, and military.

We recently represented a man killed in a general aviation crash while serving as a volunteer on a "compassion flight." He was a member of the Civil Air Patrol (CAP) and was riding in a Cessna 182T owned and operated by the CAP. The aircraft was piloted by another CAP member, and the two men were conducting a three-leg CAP flight to transport a passenger from Florida to Louisiana. They had departed from the squadron's home base in Mobile, Alabama and flown to Panama City, Florida where they encountered a 2 ½ hour delay while waiting for their passenger. After picking up the passenger, they safely transported her to Gonzales, Louisiana. Upon returning home from Gonzales, the plane crashed and both men onboard were killed.

CAP requires that all flight activities obtain a flight release before departure. As part of the flight release process, pilots are required to consult with a Flight Release Officer (FRO). The FRO who released this flight had a phone conversation with the pilot before the first leg of the trip to cover all three legs, which included a risk assessment of each flight. While the risk assessment may have been accurate when it was conducted that morning, the delay the pilot encountered in picking up the passenger resulted in significant changes in the circumstances of the flight. The 2 ½ hour delay presented risk factors of deteriorating weather conditions at the destination, a longer duty day, and the pressure to return in time for a squadron meeting that night.

Airports all along the way from Gonzales to Mobile were reporting fog that evening. The pilot was aware of both the forecast and actual weather conditions as he had received an electronic weather briefing, filed a flight plan, and had filed an alternate destination in the event of poor weather at the intended destination. In fact, a witness at the Gonzales airport stated that the pilot had expressed concern about the weather conditions before departing. However, he indicated that rather than staying over until morning, the men wanted to return before conditions deteriorated in order to attend their squadron meeting.

As the flight approached its destination, the pilot elected to divert to the alternate airport defined in his flight plan. The alternate airport was only 10 nautical miles northwest of the destination airport and was affected by the same weather conditions. While trying to land, he initiated a missed approach procedure, but the airplane diverted to the right and off course. It crashed in a wooded area and burned.

An investigation into the crash by the National Transportation Safety Board did not find any engine, airframe, or avionics anomalies that would have precluded normal operations, or medical factors that could explain the sequence of events. It was determined that because of the fog, the pilot suffered spatial disorientation as he was trying to land the plane.

Our client's family came to us for representation, and we were able to negotiate a confidential settlement on their behalf.



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The following language is required by Alabama Rules of Professional Conduct:
"No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers."

In Our Community

Join Us March 26th to Help the Child Advocacy Center

Cunningham Bounds is pleased to serve as the Presenting Sponsor for the 2022 Downtown Cajun Cook-Off benefitting the Child Advocacy Center of Mobile. The attorneys and staff of Cunningham Bounds have supported and participated in this event since it began in 2015. This year, up to 25 teams representing local restaurants will be serving Cajun fare for ticket holders to sample.

One hundred percent of all ticket sales will help fund the Child Advocacy Center's mission of providing services to help abused children in our community. The Center also provides education and training to increase public awareness of child abuse and help aid in its prevention.

Date: March 26, 2022

Time: 10:00 a.m. until 2:00 p.m.

Location: Cathedral Square
– Downtown Mobile

Tickets: \$10 in advance
\$15 the day of the event

For more information about the event or to purchase tickets, please visit:

www.cacmobile.org

Join us in supporting the well-being of the children in our community.

