**The Good Judge-ment Podcast**

**“Nuclear” Verdicts**

**Matthew Moffett**

**Hello folks and welcome to another episode of The Good Judge-ment Podcast. As always, I’m your Host, Wade Padgett.**

***And, equally as always, I’m your other host, Tain Kell. Wade, we really have another blockbuster of an episode for the audience today, don’t we?***

**That’s right, today we continue in our series of interviews on topical subjects- things in the news- with a special guest in the studio to talk about out topic, “Nuclear” Verdicts.**

***Today we have Matthew Moffett of the Atlanta law firm of Gray, Rust, St. Amand, Moffett, Brieske. Matt has spent his career on the civil defense side of the bar, serving as a former president of the Georgia Defense Lawyers Association, and teaching at that institution’s trial academy.***

**So welcome Matt.**

**[APPLAUSE SOUNDER]**

**Matt, please tell our audience a little about yourself and your career.**

**Today, we want to discuss a current “hot topic” in legal circles – that being “nuclear verdicts.”**

**For those of our audience who are plugged in to the world of litigation, they have undoubtedly heard the phrase “nuclear verdicts” used to describe those verdicts that are I guess “extraordinary” might be a good word? Jim Butler’s verdict against Ford Motor Company from last year of $1.7 billion comes to mind, but there have been others.**

**Matt, when you and your colleagues on the defense side hear the phrase “nuclear verdict”, how do you define that term?**

**Is this really a phenomenon, or is it just a perception? A Baader-Meinhof phenomenon of sorts?**

The Baader-Meinhof phenomenon, also called the frequency illusion, is a cognitive bias that affects how we think and process information. It's a phenomenon where something you recently learned seems to appear everywhere, making it feel like it's more common than it actually is.

**What, if anything, do you think is causing these verdicts?**

**Just how prevalent do you think that verdicts that qualify as “nuclear” are in Georgia?**

**Does the change in jury composition have anything to do with it?**

“Potential jurors may be drawn from lists provided by the Department of Driver Services, and from voter lists provided by the Secretary of State.”

O.C.G.A. §15-12-40.1

**How do you, as a practitioner, condition juries to/against this?**

**Do you deal with it, for example, in *voir dire*?**

**What information, if any, have you seen to say if this is a national trend?**

**Has the use of the so-called “Reptile Theory” over recent years contributed to this? What is “reptile theory” from your perspective? How is it used?**

**Are there motions out there to eliminate the use of “reptile theory”?**

**Successful?**

**Are these “nuclear verdicts” aberrations or is there a trend toward larger verdicts in general in tort litigation especially?**

**Is this part of a natural “swing of the pendulum” in litigation or is it here to stay?**

**Is there a “fix”?**

**If you can say, how are insurers responding?**

**What have you seen in practice as the effect of this phenomenon on settlements? Does it change your approach to mediation sessions?**

**Will this cause more or fewer trials in the future (i.e., harder to settle cases, more trials?)**

**How do judges fit into all this? Anything judges need to be attuned to?**

**Any final thoughts?**

**Folks, we’d like to thank our guest, Attorney Matt Moffett, from Gray, Rust, St. Amand, Moffett, Brieske for this really interesting discussion of “nuclear verdicts”.**

***TAIN: Thanks, Matt. Wade, we need like a Good Judge-ment Podcast coffee mug or something for our guests…***

**WADE: Like a parting gift or something?**

***TAIN: Right. Folks, as always, reach out to us at*** [***goodjudgepod@gmail.com***](mailto:goodjudgepod@gmail.com) ***with ideas, comments or your favorite recipe for football chili.***

**WADE: And like us and follow us on your favorite podcast platform.**

**TRIVIA:**

**As always, here on the Good Judge-Ment Podcast, we like to switch things up a bit. We have dealt with music trivia from all sorts of genres and all sorts of eras and, today, it is time to discuss the iconic band, Van Halen. Very different from some of our hip hop trivia and fun facts about Elvis Presley. Fun fact about Eddie Van Halen – he could not read sheet music. He memorized the finger movements of his guitar teacher and “played by ear.” Let’s start with an easy trivia question. Eddie and Alex Van Halen were the only consistent members of the band. You had David Lee Roth and Sammy Hagar as lead singers but what was the name of the bass player during their hayday in the late 1980’s and 1990’s? Give up? Michael Anthony. Van Halen produced a lot of great music. But they only had one #1 hit on the Billboard Hot 100. Which song was their only #1? Do you think it was *Panama*, *Hot for Teacher*, or maybe *The Cradle will Rock*? Nope, it was *Jump* that was the #1 song in America for 5 weeks, beginning in February 1984. One last question – Eddie Van Halen was famously married to Valarie Bertinelli and they had a son who eventually joined the band. The son’s first name was Wolfgang. So what was Eddie Van Halen’s middle name? Hint – there is a bit of a connection to his son’s first name. Give up? Lodewijk (“Ludwig” – as in Beethoveen). You learn so very much here at the Good Judge-Ment Podcast – just the music trivia part is usually such useless knowledge…**

**NUCLEAR VERDICTS ARTICLES:**

1. **https://www.uslaw.org/wp-content/uploads/2022/03/Litigation-Insights\_What-Causes-Nuclear-Verdicts\_LR.pdf**
2. **https://www.judicialhellholes.org/hellhole/2020-2021/georgia/**
3. **https://content.naic.org/sites/default/files/cipr-jir-2023-3.pdf**
4. **https://www.travelers.com/business-insurance/large/casualty/whats-driving-huge-jury-awards**
5. **https://instituteforlegalreform.com/wp-content/uploads/2022/09/NuclearVerdicts\_RGB\_FINAL.pdf**

**GTLA Press Release**

GEORGIA’S TRIAL LAWYERS VOW TO PROTECT GEORGIANS’ ACCESS TO JUSTICE AND THE INDEPENDNCE OF GEORGIA’S JUDICIARY

In response to a coordinated effort by well-funded special interests seeking to push “tort reform” during the 2024 legislative session, the Georgia Trial Lawyers Association (“GTLA”) is taking action to ensure that the courthouse doors remain open to everyday Georgians who are harmed by the wrongful conduct of negligent persons and corporations. GTLA is also actively educating lawmakers and the general public on the importance of a fair and impartial judiciary, including why recent unfounded attacks on Georgia’s judicial system should not and will not be tolerated.

Propaganda groups funded by large multi-national corporations, including the Washington D.C.-based group, “American Tort Reform Foundation,” (“ATRF”), have taken direct aim at Georgians’ access to full and fair civil justice and at the same time, have mounted an intimidation campaign against Georgia’s judges. Year after year, ATRF attempts to mislead our hard-working legislators in a slick written self-proclaimed “judicial hellhole” report by identifying real Georgia cases, but then continuing with either made up facts or those that are selectively cherry picked in order to distort the truth and make the outcome in those cases seem outrageous. As part of its intimidation and scare tactic propaganda, ATRF has even made up a new term to describe these case outcomes as “nuclear verdicts”. ATRF’s report then completely omits any description of the devastating injuries, the nuclear bad conduct of the defendants and the radioactive, poor risk management decisions by the liability insurance companies involved. It assigns no responsibility at all to the wrongdoers found at fault, but uses its distorted “facts” and the case outcome to manufacture a “lawsuit crisis”. Then to top it all off, ATRF blames the Georgia judiciary for the so-called “lawsuit crisis” it manufactured. What is perhaps most shocking about ATRF’s attempt to bully Georgia judges is that in each of the cases it complains about, it was the defendants and their insurance companies that demanded a jury trial in the first place!

Civil jury trials in Georgia require that 12 everyday citizens must reach a fully unanimous verdict for the trial judge to sign off on a final judgment. “In today’s political climate, if 12 strangers can agree on anything, it is nothing short of a miracle,” says GTLA President Madeleine Simmons. “The American jury system has proven to be the bedrock of our democracy, and Georgia’s civil justice system is no exception. For a record 9th year in a row, Georgia has been named the best state in the country in which to do business. A fair and healthy civil justice system has been and will continue to be good for business in Georgia, and GTLA will continue to fight to preserve access to our state’s courts for all Georgians.”

GTLA Immediate Past President, Adam Malone, stated, “The Georgia Trial Lawyers Association and Georgia’s entire legal community stand by all members of the Georgia judiciary. The judges that serve the people of this state are absolutely devoted to the rule of law and the impartial administration of justice for all.”

“GTLA will continue to maintain an open, productive dialogue with Governor Brian Kemp and all members of the Georgia General Assembly. We will work tirelessly to ensure that every elected official is aware of the eye-opening facts behind large jury verdicts and the consistent pattern of irresponsible corporate and insurance company decision-making that leads to these types of verdicts,” says Simmons. “GTLA will do its part to keep Georgia as the top state in the country in which to do business, while making sure the courthouse doors are never closed to our citizens who have been harmed by the wrongful conduct of others.”