

NAME	DATE	TYPE OF CASE	TRIAL COURT RULING	SUPREME COURT RULING	SUPREME COURT HOLDING
<u>Wilson v. Axmens Limestone Hospital</u> No. 1030013	June 18, 2004	Med Mal, wrongful death, duty, judgment as a matter of law	TC entered JML in favor of defendant hospital.	Affirmed	The SC held as a matter of law the Doctor did not have a duty to intervene in patient's treatment by other doctor.
<u>B'ham News Co. v. Horn</u> No. 1020552	June 11, 2004	Arbitration, appeal, time lines on appeal, duplicative damages	TC entered arbitration awards.	SC affirmed.	SC affirmed but reduced some of the damages. The Court noted that plaintiffs appeal was untimely. The SC disallowed and vacated that portion of each award providing damages for the smaller separate component of "loss of franchise value." The Court upheld the award of compensatory and punitive damages made as a result of a finding for the plaintiffs on the fraud claim.
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<u>Ex parte State Farm Mut. Auto Ins. Co.</u> , No. 1021378	June 4, 2004	Uninsured Motorist	TC denied Defendant's motion to transfer. State Farm and Corley petitioned SC. to vacate TC's denial.	SC granted the petition and issued the writ.	SC held that venue for uninsured motorist cases is where accident occurred.
<u>Philadelphia Am. Life Ins. Co. v. Bender</u> , No. 1022141 & 1030029	June 4, 2004	Arbitration	TC denied motion to compel arbitration.	SC reversed.	SC held that although plaintiff did not sign the arbitration endorsement, it is part of the insurance contract to which he is a party and, thus, he is required to submit his claims to arbitration.
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<u>Ex parte City of Brundidge</u> , No. 1030490	June 4, 2004	Work Comp-Subrogation	TC permitted employer to recover from Alabama Insurance Guaranty Fund payments to employee	SC reversed the judgment of the Civ App, which had reversed the TC.	SC reasoned that denying the employer its reimbursement and subrogation rights would be at odds with the Workers' Compensation Act, without advancing the policy objectives of the Guaranty Association Act.
<u>Ex parte Fort James Operating Co.</u> , No. 1030607	June, 4 2004	Work Comp	TC found Irby permanently and totally disabled and awarded disability benefits, but allowed no set off for sums paid by employer under a separate sickness and accident policy.	Civ App affirmed in part; reversed in part. SC reversed.	SC, in reversing, allowed a credit for sickness benefits paid.
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<u>Brackin v. Trimmier Law Firm, No. 1021005</u>	May 28, 2004	Defamation	Jury awarded Brackin \$800,000 in comp and \$200,000 in punitive damages.	SC reversed the judgment in Brackin's favor.	The SC held that Brackin failed to establish that FSCU published statements to a third party... the SC found no evidence of a breach of duty owed to Brackin.
<u>Memberworks, Inc. v. Yance, No. 1021460</u>	May 28, 2004	Arbitration	TC denied Memberworks' motion to compel arbitration	Denial of motion to compel arbitration reversed and remanded.	The SC held that evidence is sufficient to establish the existence of a contract between the two. Payment of the credit card bill for two years with notice of arbitration is sufficient for agreement to arbitrate.
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<u>SCI Ala. Funeral Servs., Inc. v. Beauchamp</u> , No. 1012184	May 21, 2004	Negligence; Wantonness and Outrage	TC entered judgment for plaintiff for compensatory and punitive damages.	SC affirmed without opinion.	
<u>U-Haul Co. Of Ala., Inc v. Johnson</u> , No. 1021726	May 14, 2004	Class Action; Certification	TC certified class	SC vacated class certification and remanded	The SC concluded that the TC exceeded its discretion in certification of the class.
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<u>General Motors Acceptance Corp. v. Massey</u> , No. 1030209	May 14, 2004	Class Action; Re: Forced Place Insurance	TC certified class	SC vacated class certification order.	The SC noted that a class certification order, not considering compulsory counterclaims, does not reflect a rigorous analysis of the Rule 23 factors. The SC held that the TC has no discretion to admit consideration of counterclaims and relevant defenses.
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<u>Knox vs. Western World Ins., Co.</u> No. 1030582	May 14, 2004	Insurance; whether a tort claimant may bring claim for declaratory relief	Declaratory Judgment Action–dismissed tort claimants claim against defendants insurer	Affirmed	SC held that a tort claimant may not bring a claim for declaratory relief against a tortfeasor’s liability insurance company before a final judgment determining the tortfeasor’s liability has been entered in the case but claimant is entitled to defendant’s insurance policy.

<u>Alfa Life Ins. Corp. V. Jackson</u> , No. 1001854 & 1002002	May 7, 2004	Insurance, fraud, policies will be paid up in 15 years	Jury awarded \$500,000 in comp damages and \$5,000,000 in punitive. Trial ct denied a new trial or remittitur.	SC held that TC correctly denied JML, TC erred in denying a remittitur of the comp damages award, erred in not reducing punitives	SC distinguished this case from vanishing premium cases and held the claim was ripe. Damages reduced to \$100,000 in compensatory and \$300,000 in punitive.

<u>Chapman v. Smith</u> , No. 1011863	May 7, 2004	Med Mal	TC refused to allow expert to testify because he was not board certified w/in 1 year of date of malpractice, resulting in dismissal order vacated by trial court.	Affirmed in part and reversed in part. Remanded	The SC aff'd Smiths' motion to alter, amend or vacate judgment and reversed concerning qualification of non board-certified expert
<u>Ex parte Sawyer</u> , No. 1020888	May 7, 2004	Venue; forum non conveniens	TC denied defendants forum non conveniens motion and defendants petitioned the SC for a writ of mandamus directing the TC to transfer the action to Morgan County.	SC granted petition and issued the writ.	SC held defendants established existence of appropriate venue in Morgan County and established that a transfer to that venue is necessary for the convenience of parties and witnesses.

<p><u>Daimler Chrysler Corp. v. Morrow</u>, No. 1021866 & 102977</p>	<p>May 7, 2004</p>	<p>Warranties; fraudulent suppression -- verdict for \$93,500</p>	<p>Denied Chrysler and Akin's motions; granted Morrow's motion</p>	<p>Affirmed in part and reversed in part. The SC reversed judgment in favor of Morrow and against Chrysler and Akin.</p>	<p>SC erred in denying Akin's renewed motion for a JML with respect to Morrow's breach of implied warranty claim.</p>
<p><u>Smith v. AmSouth Bank, Inc.</u></p>	<p>May 7, 2004</p>	<p>Banking; negligence</p>	<p>Summary judgment in favor of AmSouth</p>	<p>Affirmed</p>	<p>AmSouth owed no duty to protect Smith from wrongful acts committed by Utsey.</p>

<p><u>Ex. Parte Blankenship</u>, No. 1030484</p>	<p>May 7, 2004</p>	<p>Damages suit v. county sheriff's deputy</p>	<p>TC denied defendant's mt to dismiss</p>	<p>SC Granted defendant's petition</p>	<p>SC reasoned that because it is alleged in the complaint and admitted in the answer that Deputy was in the scope of his duties, he is entitled to immunity.</p>
<p><u>Hunt Petroleum Corp. v. State of Ala.</u>, No. 1011762</p>	<p>April 30, 2004</p>	<p>Fraud; punitive damages</p>	<p>Entered Judgment for \$3,400,000 in compensatory damages and \$20,000,000 in punitive damages</p>	<p>SC Reversed & Rendered</p>	<p>SC reasoned State had not relied on false submissions by Hunt.</p>

<p><u>Chicago Title Ins. Co. v. American Guar. & Liability Ins. Co.</u>, No. 1022001</p>	<p>April 30, 2004</p>	<p>Garnishment action; insurance; necessary party</p>	<p>TC denied Ham's motion to intervene</p>	<p>Reversed</p>	<p>The SC held that where the judgment creditor fails to join the insured as a party to an action brought under 27-33-2, it must reverse the judgment of the TC and remand the cause for further proceedings consistent with its opinion.</p>
<p><u>Ex. Parte Steelcase, Inc.</u>, No. 1030248</p>	<p>Apr. 23, 2004</p>	<p>Work Comp</p>	<p>TC found Richardson totally disabled.</p>	<p>Affirmed</p>	<p>No language in 25-5-57(a)(3) to indicate that the Legislature intended that the measurement of compensation be limited to an assignment of a permanent and partial disability rating when a disabled plaintiff seeks reconsideration for permanent partial disability rating</p>

<p><u>Harper v. Winston County</u>, No. 1021433</p>	<p>Apr. 23, 2004</p>	<p>Wrongful discharge; battery and assault</p>	<p>Summary judgment in favor of Winston County (against Employee)</p>	<p>Affirmed in part; reversed in part</p>	<p>Affirmed summary judgment on breach of employment contract claim. Reversed summary judgment on claim against supervisor for assault and battery.</p>
<p><u>Dzwonkowski v. Sonitrol of Mobil, Inc.</u> No. 1030285</p>	<p>Apr. 23, 2004</p>	<p>Corporate wrongdoing</p>	<p>Denied Plaintiff's motion to alter, amend, or vacate the judgment</p>	<p>Dismissed the appeal</p>	<p>SC held that the TC exceeded its authority in certifying as final the counterclaims for compensatory damages and exceeded its discretion in certifying the remaining claims and counterclaims as final order.</p>

<u>Serra Chevrolet, Inc. v. Hock</u> , No. 1030302 & 1030303	Apr. 23, 2004	Lease Dispute	TC denied the motion to compel arbitration.	Reversed and remanded.	The SC held that factual allegation and claims in the complaint belie Hock's contentions that he is not asserting any claims arising out of or relating to the Hock lease.
<u>McCray v. State Farm</u> , No. 1030305	Apr. 23, 2004	Breach of insurance contract; dispute over cancellation notice	TC entered a summary judgment in favor of State Farm	Reversed	SC found a genuine issue of material fact about whether the State Farm cancellation was mailed properly.
<u>Valentine v. Watters</u> , No. 1020986	April 16, 2004	Legal Malpractice	Summary Judgment in favor of Defendant	Reversed	SC held that it is Plaintiff's burden to prove that the legal service provider breached the applicable standard of care but expert testimony is not always required to establish that the

					legal service provider deviated from the applicable standard of care. In this case expert testimony not required when the matter is within the common knowledge of the jury i.e. filing an untimely claim.
<u>Walden v. Smith</u> No. 1021518 & 1021526	April 16, 2004	Fraudulent suppression	TC ruled against plaintiff on plaintiff's fraudulent suppression claim.	SC affirms TC decision	Affirmed without opinion
<u>BT Secs. Corp. v. W.R. Huff Asset Mgt. Co., L.L.C.</u> , No. 1021226	April 16, 2004	Class Action; securities; fraud	Huff's claims were not preempted by SLUSA because the alleged wrongful conduct occurred before the enactment of SLUSA.	Reversed and rendered a judgment for the Defendants.	Huff's ability to bring a covered class action is a matter of procedure, not a substantive right; therefore, SC held that SLUSA applies to and preempts Huff's claims.

<p><u>Stovall v. Universal Construction Co.</u>, No. 1021938 & 1021953</p>	<p>Apr. 9, 2004</p>	<p>Personal Injury; negligence of general contractor</p>	<p>TC entered a summary judgment in favor of general contractor on all counts filed by Stoval a rocket replica job at Space and Ricket Center in Huntsville.</p>	<p>Affirmed</p>	<p>Stovall failed to produce substantial evidence indicating that general contractor reserved the right to control how Elee and his fellow painters used the lighting and failed to provide substantial evidence showing Turner owed duty to provide adaqueate lighting.</p>
<p><u>Dan Wachtel Ford, Licoln, Mercury, Inc. v Modas</u>, No. 1022087</p>	<p>Apr. 9,2004</p>	<p>Arbitration; conversion action</p>	<p>Denied motion to compel arbitration</p>	<p>Reversed</p>	<p>Reversed based on the following: express language, burden of proof had been met, the transaction affected interstate commerce—scope of arbitration agreement covered all of plaintiff’s claims</p>

<p><u>Ex parte Byrom, No. 1021113</u></p>	<p>Apr. 2, 2004</p>	<p>Work Comp; claimant struck by lightening at work</p>	<p>Determined Byrom was permanently disabled and awarded benefits...Ct of Appeals reversed</p>	<p>Reversed Ct of Apps</p>	<p>The record supports the conclusion that plaintiff's employment subjected him to a greater risk of injury not common to the only class addressed by the parties and the TC and that this greater-than-common risk did cause plaintiff's injury.</p>
<p><u>Ex parte Georgia Farm Bureau Mut. Auto Ins. Co., No. 1011899</u></p>	<p>Mar. 26, 2004</p>	<p>Uninsured Motorist</p>	<p>TC denied motion to dismiss without stating a rationale.</p>	<p>Granted Farm Bureau's petition for writ of mandamus directing TC to dismiss the case.</p>	<p>SC held that Alabama had no jurisdiction over Georgia Farm Bureau.</p>

<p><u>Williford v. Emerton</u> No. 102066</p>	<p>Mar 26, 2004</p>	<p>Breach of contract, conversion, preserving error, punitive damages</p>	<p>Jury awarded judgment for plaintiffs on ambiguity of rental payment date.</p>	<p>SC affirmed in part; reversed in part.</p>	<p>SC upheld jury verdict on ambiguity of rental payments; affirmed \$800,000 in compensatory damages for conversion claim; remanded judgment for punitive damages and rejected the Boston claim.</p>
<p><u>Chandiwala v. Pate Cont. Co.</u>, 1021940</p>	<p>Mar. 26, 2004</p>	<p>Dryvit suit</p>	<p>TC granted summary judgment on SOL</p>	<p>Affirmed</p>	<p>SC held that SOL began to run when plaintiff discovered dryvit not properly sealed.</p>

<p><u>Johnson v. Coregis Ins. Co.</u>, No. 1020983</p>	<p>Mar. 19, 2004</p>	<p>Uninsured Motorist</p>	<p>Dismissed claims against Coregis</p>	<p>Reversed</p>	<p>Assuming Johnson is covered by his employer's under-insured motorist insurance policy, the workers' compensation act does not bar Johnson from recovering those insurance benefits</p>
<p><u>Culp v. Economy Mobile Home</u>, No. 1011759</p>	<p>March 19, 2004</p>	<p>Fraudulent misrepresentation; violation of the Alabama Extended Manufacturer's Liability Doctrine</p>	<p>TC granted defendants' motion to dismiss</p>	<p>SC reversed dismissal of complaint.</p>	<p>SC held that TC erred in dismissing the complaint because the Culps stated a claim to pierce the corporate veil of Free State Homes Manufacturing Inc. and to impose personal liability on Rustin.</p>

<p><u>Taylor v. Smith, No. 1011673</u></p>	<p>Mar. 12, 2004</p>	<p>Malpractice, personal injury—duty to non-patient</p>	<p>TC granted Dr. Smith's summary judgment motion</p>	<p>SC reversed</p>	<p>The SC held that the duty of care owed by the director of a methadone treatment center to his patient extends to third party motorists who are injured in a foreseeable automobile accident with the patient that results from the director's administration of methadone.</p>
<p><u>State Farm Mut. Auto. Ins. Co. v. Nix, No. 1021594</u></p>	<p>Mar. 12, 2004</p>	<p>Suppression-negligent failure to procure insurance</p>	<p>Jury returned verdict against plaintiff for \$15,325.54 and \$200,000 in punitives</p>	<p>Reversed in part; affirmed in part; remanded in part</p>	<p>TC erred in submitting punitives to the jury</p>

<u>Smith v. The Huntsville Times Co.</u> , No. 1021999	Mar. 12, 2004	Defamation	TC granted summary judgment for the Times	Affirmed	
<u>Ex parte Newton</u> , No. 1021368	Mar. 5, 2004	Co-employee action	TC granted summary judgment for defendants	Affirmed in part and reversed in part	Affirmed the summary judgment for Wrights on the willful failure claim; reversed the summary judgment on the safety devise claim

<p><u>Walls v. Aphaarma USP, Inc.</u>, 1010645</p>	<p>Mar. 5, 2004</p>	<p>Certified question from US District Court, Northern District of Alabama</p>	<p>Certified question.</p>	<p>Answered certified question.</p>	<p>SC held that a pharmacist has no duty to warn of foreseeable injury for the use of prescription drug(s) he dispenses. Learned intermediary doctrine applies to prevent liability on the pharmacist.</p>
<p><u>McKenzie v. Killian</u>, No. 1021616,</p>	<p>Mar. 5, 2004</p>	<p>Auto Accident</p>	<p>Entered a summary judgment for Killian as to McKenzie's negligence and wantonness claims</p>	<p>Affirmed</p>	<p>SC changed the law on trespass and held that wantonness claims are governed by a six year S of L, but found no wantonness.</p>

<u>Liberty Nat'l Life Ins. v. Turcotte, Nos. 1020911</u>	Feb. 20, 2004	Fraud and Suppression	Denied Liberty National's motion for a new trial, but remitted the comp-damages to \$60,000 and the punitives to \$180,000.	Reversed and Rendered judgment in favor of Liberty National	The SC held that claims were barred by SOL and no evidence of reliance—decision is arguably contrary to vanishing premium cases.
<u>Dennis v. Northcutt, No. 1021266</u>	Feb. 13, 2004	Legal Malpractice	Summary judgment in favor of Northcutt	Reversed	Reversed summary judgment and held that Dennis filed within the S of L period

<u>Generali US Branch v. The Boyd School</u> , No. 1021393	Feb. 13, 2004	Insurance Coverage	Generali issued the school liability coverage; Generali must defend the school	Affirmed	SC held that the transportation of pupils exclusion does not apply in this case.
<u>Owens v. Coosa Valley Health Care, Inc.</u>	Feb. 13, 2004	Nursing home negligence; arbitration;	TC ordered arbitration	Affirmed	SC compelled arbitration- nursing case involves interstate commerce.

<u>Briarcliff Nursing Home, Inc. v. Turcotte</u> , Nos. 1012193 & 1012193	Feb. 6, 2004	Wrongful death; arbitration	Denied motion to compel arbitration	Reversed	Turcotte and Woodman did not establish that the terms of the agreement grossly favored Briarcliff. Arbitration clause survives death of plaintiff's decedent.
<u>Ex parte Williams</u> , No. 1020034	Jan. 9, 2004	Work Comp; third party tortfeasors	TC held no part of settlement was attributed to future medical expenses.	SC affirmed Ct of Civ. App. holding reversing TC decision and remanding case	The TC must assign a sum to the future medical and vocational expenses portion of the settlement in the action against the 3 rd party tortfeasors.
<u>Ex parte Canada</u> , No. 1021723	Jan. 9, 2004	Failure to maintain safety devise	Summary Judgment in favor of defense	Reversed	Sufficient evidence exists to create a genuine issue of material fact

<u>Breaux v. Thurston</u> , No. 1011655	Dec. 30, 2003	Med Mal	\$300,000 verdict against defendant doctor	Reversed for new trial	Court held improper jury charge given in retained instrument case
<u>Ex parte Western Mental Health Center</u> , No. 1011990	Dec. 30, 2003	Damages suit; mental anguish; claimed doctor-patient privilege	TC overruled Western's objections and ordered to produce document`	SC granted writ	SC granted writ to vacate its order and quash the subpoena. Mere allegation of mental anguish does not waive privilege.

<u>Shiv Ram, Inc. v. McCalab</u>	Dec. 30, 2003	Suit v. Hotel for damage	TC entered judgment for \$176,000 in compensatory damages plus \$500,000 in punitive damages	Affirmed	Damages were not excessive- court refuses to revive old cap of 6-11-21 or overrule Henderson v. Alabama Power Co.
<u>Ex parte Liberty Nat'l Life Ins. Co., No. 1021173</u>	Dec. 30, 2003	Class Action; suppression	Trial Court denied defendant's motion to dismiss and motion for summary judgment	SC granted defendant's petition- subject matter jurisdiction is reviewable by writ of mandamus.	SC held the action attempts to improperly collaterally attack portions of the Robertson settlement from another circuit court. The circuit in which the settlement took place has jurisdiction over matters relating to the settlement.
<u>Kinney v. Williams, No. 1020412</u>	Dec. 30, 2003	Fraud; negligence	granted William's motion for a summary judgment	Reversed and Rendered	Though Williams was not the Adairs' attorney, he knew their interest in the property and in the private status of the road, and he directed his misrepresentations to the Adairs as well as to his clients the Kinneys. The TC erred in entering a summary judgment in favor of Williams.
<u>Ex parte</u>	Dec. 30,	Breach of	TC overruled	Defendant	SC held that plaintiff failed to meet burden of "clearly establishing the

<p><u>ProCom Services, Inc.</u>, No. 1021851</p>	<p>2003</p>	<p>employment contract, outbound forum-selection clause</p>	<p>defendants' motion to dismiss</p>	<p>entitled to enforce the outbound forum selection clause contained in the employment contract</p>	<p>forum selection clause was unfair, failed to establish "overwhelming bargaining power," a trial in Dallas, Texas would not deprive plaintiff of his day in court, and plaintiff's claims arise out of statements made while negotiating contract</p>
<p><u>Ex parte Romines</u>, No. 1022065</p>	<p>Dec. 30, 2003</p>	<p>Work Comp</p>	<p>TC held mental predisposition to hypertension does not destroy compensability</p>	<p>SC denied petition for writ</p>	<p>Dissent noted that "[p]re-existing disease or other predisposition does not prevent compensability. The employer takes the worker as he finds him." (quoting Arthur Larson, <i>The Law of Workmen's Compensation</i> § 41.64 c (1991)).</p>

<u>DolgenCorp. Inc. v. Hall</u> , No., 1012000	Dec. 19, 2003	Negligence—bottle of drain cleaner spilled onto customer's face	\$100,000 verdict for plaintiff	Reversed	SC held that evidence was insufficient to show negligence; verdict based on speculation—no evidence defendant knew of open container
<u>AmSouth Bank v. Looney</u> , No. 1020839	Dec. 19, 2003	Arbitration	Denied motion to compel arbitration	Reversed. Instruction to grant motion to compel arbitration	The signed documents are sufficient to bind her to the terms of the arbitration agreement.

<p><u>DCH Healthcare Auth. v. Duckworth, No., 1020913</u></p>	<p>Dec. 19, 2003</p>	<p>Med Mal</p>	<p>TC denied DCH's motion for JML; Jury awarded Duckworth \$350,000</p>	<p>Reversed and rendered a judgment for DCH.</p>	<p>SC held that Duckworth failed to prove medical causation. Insufficient expert testimony-saying that prompt care gave patient better chance of recovery-not enough</p>
<p><u>Delta Health Group, Inc. v. Stafford, No. 102167</u></p>	<p>Dec. 19, 2003</p>	<p>Defamation; Fraud</p>	<p>TC found punitive damages reasonable; denied Delta Health's motion for a remittitur-verdict of \$200,000 in compensatory damages and \$200,000 in punitives</p>	<p>Reversed and Remanded for a new trial.</p>	<p>SC held that the TC erred in denying Delta Health's motion for a JML regarding the fraud claim. Case remanded due to good count/bad count rule</p>
<p><u>Scott Bridge Co. v. Wright, No. 1021705</u></p>	<p>Dec. 19, 2003</p>	<p>Retaliatory discharge</p>	<p>TC denied Scott Bridge Co motion for a summary judgment</p>	<p>Reversed the TC denial of the motion for summary judgment and rendered a judgment for Scott Bridge</p>	<p>SC held § 25-5-11 does not apply where employee received benefits under Georgia's Worker's Compensation act</p>

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<u>Callaway v. Whittenton</u> , No. 1020660	Dec. 19, 2003	Wrongful repossession and trespass	TC granted defendant's JML for wrongful repossession, trespass, and civ conspiracy Jury found in favor of Whittenton on other claims	SC affirmed as to the trespass claim and reversed as to the wrongful repossession claim	SC held that Callaway presented evidence from which a jury could find wrongful repossession, therefore, the claim should have been submitted to the jury.
<u>Williams v. State Farm Mut. Auto Ins. Co.</u> , No. 1021758	Dec. 19, 2003	Bad-faith failure to pay; claim insurer by third party	TC granted State Farms motion for a summary judgment	Affirmed.	State Farm was entitled to a JML.
<u>General Motors Corp. v. Jernigan</u> , No. 1020069	Dec. 12, 2003	Product liability	Jury returned verdict for \$22 million in compensatory damages and \$100 million in punitive	Reversed the TC's denial of GM's post-trial motion and	SC held that the TC erred in denying GM's motion for new trial based on fact that relatives of one of the plaintiff's lawyers were not

			damages. TC denied post-trial motion, but remitted the punitive damages to \$60,000,000.	remanded case for new trial	dismissed for "cause." Court refused to adopt Daubert standard for expert witness. Court found sufficient evidence of a design defect to submit to the jury.
<u>Howard v. City of Atmore</u> , No. 1021312	Dec. 12, 2003	Wrongful death-jail suicide	Summary judgment for all the defendants	Affirmed in part; reversed in part	Whether the judgment was affirmed or reversed depended on the immunity of the officer/defendant
<u>SCI Ala. Funeral Serv. Inc. v. Corley</u> , 1020450	Dec. 12, 2003	Arbitration; interstate commerce	TC denied motion of the defendants to compel arbitration	SC affirmed in part; reversed in part.	SC affirmed TC motion to deny arbitration insofar as it applies to the plaintiffs' claims against Service Corp., Int'l but reversed the order as it applied to plaintiff's claims against SCI-Alabama Funeral Home.

<u>Cook's Pest Control, Inc. v. Hastings.</u> 1021795	Dec. 12, 2003	Arbitration	Denied motion to compel arbitration—no interstate commerce	Reversed	.
<u>Service Corp. Int'l v. Fulmer</u> No. 1021503	Dec. 5, 2003	Arbitration	TC denied motion to compel arbitration	Reversed as to SCI Alabama; affirmed as to SCI	Non-signatory plaintiffs bound by arbitration clause because claims depend on obligations created by contract containing arbitration clause

<p><u>Pearson v. Brooks</u>, No. 1021494</p>	<p>Dec. 5, 2003</p>	<p>Fictitious parties, relation back, statute of limitations</p>	<p>TC granted defendants' motion to dismiss based on S of L</p>	<p>SC affirmed</p>	<p>SC held that Pearson could not have reasonably been ignorant of defendants' identities (plaintiff had initially brought claim against fictitious party).</p>
<p><u>State Farm Mut. Auto. Ins. Co. v. Harris</u>, No. 1020609</p>	<p>Nov. 26, 2003</p>	<p>Uninsured motorist-stacking issue</p>	<p>Jury returned verdict for \$121,800 in compensatory and \$7,000 in punitive damages. TC denied motion to reduce the judgment by \$25,000</p>	<p>Reversed and Rendered</p>	<p>SC held that Harris did not fall within the definition of "insured;" he was not entitled to stack the u/m coverage available in the insurance policies issued to Hugh Harris by State Farm.</p>

<u>Wal-mart Stores, Inc. v. Hepp.</u> , No. 1012237	Nov. 21, 2003	Retaliation discharge	Denied Wal-mart's motion for a summary judgment, but certified its order for an interlocutory appeal	Reversed	Plaintiff collaterally estopped to deny that misconduct was reason for dismissal.
<u>Ex parte Horton Family Housing, Inc.</u> No. 1021679	Nov. 21, 2003	Discovery, arbitration; manufactured home dispute	TC issued protective order sought by defendants to limit issues of discovery.	SC denied defendant's petition.	SC held plaintiffs are entitled to limited discovery of issues that are central to their case.

<p><u>Harbor Village Home Center, Inc. v. Thomas</u>, No. 1020392</p>	<p>Nov. 21, 2003</p>	<p>Arbitration; merger clauses</p>	<p>Denied motion to compel arbitration on some issues; granted motion on other issues</p>	<p>Reversed</p>	<p>SC held that the retail contract is the only fully integrated agreement between Harbor Village and Thomas. Despite the fact that it contains a merger clause, the acknowledgment is not the final and complete agreement of the parties.</p>
<p><u>Edward D. Jones & Co. v. Wehby</u>, No. 1020689</p>	<p>Nov. 21, 2003</p>	<p>Arbitration</p>	<p>Denied Jones' motion to dismiss and compel arbitration</p>	<p>reversed</p>	<p>The SC held that the transaction at issue in this case between Jones and Wehby involves interstate commerce.</p>

<p><u>Ex parte Alloy Wheels Int'l</u>, No. 1020778</p>	<p>Nov. 21, 2003</p>	<p>Personal jurisdiction issue</p>	<p>Denied Alloy's motion for a summary judgment on jurisdiction</p>	<p>Directed the TC to grant Alloy's motion for summary judgment</p>	<p>SC held that Alloy Wheel's had not "purposefully directed any action at the forum state", rather; it merely placed its product in the stream of commerce—no minimum contacts</p>
<p><u>Dunning v. New Eng. Life Ins. Co.</u>, No. 1011927</p>	<p>Nov. 21, 2003</p>	<p>Standing; insurance; fraud and breach of contract</p>	<p>TC granted a summary judgment in favor of defendants, TC allowed plaintiff's appeal, though original was not filed</p>	<p>SC vacated the TC's judgment and dismissed the appeal</p>	<p>The Ala. R. Civ. P do not require a notice of appeal to bear an original penned signature. The Court held that the employees lacked standing to sue on the alleged under-performance of the life ins. policies because they are strangers to the contract on which their claims are based. TC did not have jurisdiction over their claims.</p>

<u>Ex parte Leasecomm. Corp.</u> , No. 1021201	Nov. 21, 2003	Class action	TC found forum selection clause unreasonable	Supreme Court denied petitioners' writ of mandamus	SC held that where a plaintiff's suit is truly broader than the forum selection clause and the structure of the complaint is not an attempt to avoid the forum selection clause, enforcement of the forum selection clause would be unreasonable.
<u>Pittman v. United Toll System, L.L.C.</u> , No. 1021188	Nov. 21, 2003	Automobile accident; negligence	TC granted summary judgment for Defendant	Reversed issues of fact present on toll company's liability	

<p><u>Ex parte Sears Roebuck & Co.</u>, No. 1020251</p>	<p>Nov. 14, 2003</p>	<p>Wrongful death; work comp; fraud; concealment misrepresentation; sanctions</p>	<p>TC struck Sear's pleadings as to Salter's fraud claims.</p>	<p>SC denied defendants' petition to order the trial court to vacate its order striking pleadings.</p>	<p>SC held that TC judge was well within his discretion to sanction Sears for discovery abuse. SC left it up to TC to determine what aspect of the pleading it would strike.</p>
<p><u>Harrelson v. R.J.</u> No. 1012233</p>	<p>Nov. 7, 2003</p>	<p>Assault; battery; tort of outrage; punitive damages</p>	<p>Jury awarded \$15,000 in comp damages and \$75,000 in punitives</p>	<p>Affirmed</p>	<p>Substantial evidence exists from which a jury could find J.B suffered emotional distress. Punitive damages were justified</p>

<p><u>Elizabeth Homes, L.L.C v. Gantt</u>, No. 1021661</p>	<p>Nov. 7, 2003</p>	<p>Arbitration; interstate commerce</p>	<p>Denied Holmes' motion to arbitrate</p>	<p>Reversed</p>	<p>Holmes also established the transaction at issue involved interstate commerce</p>
<p><u>Dickinson v. Land Developers Constr. Co.</u>, No. 1021276</p>	<p>Nov. 7, 2003</p>		<p>TC granted defendants' motions for summary judgment.</p>	<p>Affirmed in part; reversed in part</p>	<p>SC held that the two- year S of L was a bar to certain claims, whether the Dickenson's should have discovered the structural defects is a question for the jury. SC affirmed summary judgment in favor of Cook.</p>

<u>Ex parte Perfection Siding</u> , No. 1021363	Nov. 7, 2003	Venue	TC denied defendant's motions to transfer.	SC denied defendants' motion to transfer the case to Tuscaloosa County.	SC noted that because Sealy resided in Hale County where the action arose, venue would be proper in Hale County under Ala. Code 6-3-7(a).
<u>Newson v. Protective Industry Ins. Co.</u> , No. 1011342	Oct. 31, 2003	Suppression and conversion; negligent employ. practices	TC dismissed all of Newson's claims	SC reversed as to most of the claims	Fact Intensive Opinion

<p><u>Mobile Infirmery Med. Ctr. Hodgen, No. 1011932</u></p>	<p>Oct. 31, 2003</p>	<p>Medical malpractice, \$2,250,000 in punitive damages</p>	<p>TC refused to remit punitive damage award; denied post-trial motions</p>	<p>SC affirmed conditionally.</p>	<p>Affirmed on the condition that punitive damages would be remitted to \$1,500,000—the amount appropriate under the Ala. Code. No compensatory damage is not inconsistent with punitive damage award if plaintiff proves plaintiff suffered same compensatory damages.</p>
<p><u>Coca Cola Bottling v. Consolidated v. Hollander, No. 1020520</u></p>	<p>Oct. 31, 2003</p>	<p>Retaliation discharge. Jury awarded \$150,000 in compensatory damages and \$250,000 punitive damages</p>	<p>TC denied motion for JML from CCBCC</p>	<p>Reversed & rendered</p>	<p>CCBCC's stated reason for terminating employment precludes a finding that the filing of a work comp claim was the sole cause of his termination.</p>

<u>Steele v. Walser</u> , No. 1020652	Oct. 31, 2003	Fraud in sale of new house, arbitration	TC entered order denying Steele's motion to dismiss	Reversed	SC concluded that Steele showed the aggregate effect of the transaction evidence by the construction and sales contract satisfied the Fed. Arb. Act's involving commerce test.
<u>Southtrust Corp. v. James</u> , No. 1021103	Oct. 31, 2003	Arbitration	Denied Southtrust's motion to dismiss or compel arbitration	Reversed	Sufficient interstate commerce; arbitration provision is not unconscionable
<u>ECS, Inc. v. Goff Group, Inc.</u>	Oct. 31, 2003	Arbitration	Denied motion to compel arbitration	Reversed	

<u>Wilson v. Manning</u> , No. 1020431	Oct. 24, 2003	Med-Mal; jail inmate	Granted a motion for summary judgment	Reversed	Genuine issue of material fact exists as to whether Manning provided Wilson with necessary medicines—no immunity as a matter of law.

<u>Jim Walter Homes, Inc. v. Saxton</u> , No. 1020513	Oct. 24, 2003	Mobile home fraud; arbitration	Denied JWH's motion to compel arbitration	Reversed	SC held that because Saxton has taken the position that JWH breached its contract with him, he cannot now claim that the contract is invalid because JWH failed to sign it.
<u>Middleton v. Lightfoot</u> , No. 1020666	Oct. 24, 2003	Wrongful death; med mal; cholecystectomy gone bad	Judgment for Defendant	Reversed	SC ruled defendant cannot cross-examine plaintiff's expert on prior suits against expert.

<u>John Deere Contr. Equip. Co v. England, No. 1020984</u>	Oct. 24, 2003	Insurance fraud; equipment dealer	TC entered a judgment for \$289,000 in comp. damages and \$867,000 in punitive damages	Reversed	As a matter of law, the dealer was not agent of manufacturer.
<u>Liberty Nat'l Life Ins. Co. v. Ester, No. 1021395</u>	Oct. 24, 2003	Arbitration	Denied motion to compel arbitration	Reversed	SC held that the plaintiff did not present substantial evidence to support a fraudulent-inducement claim.

<u>General Motors Corp. v. Stokes Chevrolet, Inc., No. 1021446</u>	Oct. 24, 2003	Arbitration	Denied GM's motion to compel arbitration	Affirmed	Court held that the claims asserted by the Stokeses in the present action under the dealer agreement are not subject to the arbitration clause contained in the relocation agreement. To hold otherwise would be to suggest it was misled by GM in Stokes I (850 So.2d 1239 (Ala. 2002)).
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<u>Ex parte</u> <u>McWhorter</u> , No. 1021638	Oct. 24, 2003	Negligence and wantonness (defendant is deputy sheriff)	TC denied defendant's motion to dismiss	SC granted the petition for writ of mandamus	Deputy is entitled to sovereign immunity, now referred to as state immunity, because he was acting within the line and scope of his employment.
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<p><u>Southern Pine Elec. Coop. v. Burde</u> No. 1020066</p>	<p>Oct. 24, 2003</p>	<p>Excessive punitive damages, mental distress</p>	<p>Jury awarded plaintiff \$20,000 in compensatory damage and \$75,000 for punitive damages.</p>	<p>Affirmed.</p>	<p>SC held that actions alleging the wrongful termination of utility services, damages for mental distress are recoverable and when the circumstances justify it, so are punitive damages.</p>
<p><u>Frazier v. St. Paul Ins. Co.</u>, No. 1020505</p>	<p>Oct. 10, 2003</p>	<p>Uninsured motorist</p>	<p>Entered a judgment for St. Paul based on worker not entitled to employer's uninsured motorist coverage</p>	<p>Reversed</p>	<p>Assuming that Frazier meets the definition of an insure under the St. Paul automobile insurance policy and assuming that no policy exclusion applies, nothing in the Alabama Work Comp Act would bar Frazier from recovering the uninsured motorist benefits to which he may be entitled under the St. Paul automobile insurance policy issued to Charter.</p>

<p><u>UBS Paine Webber, Inc. v. Brown</u>, No. 1020524</p>	<p>Oct. 10, 2003`</p>	<p>Suit against arbitration broker-</p>	<p>Denied Paine Webber's motion to compel arbitration</p>	<p>Reversed</p>	<p>Brown's continuation of his relationship with Paine Webber precludes his denial of acceptance of the terms of the Paine Webber agreement, which unambiguously covers pre-existing disputes</p>
<p><u>Morris v. Cornerstone Propane Partners</u> No. 1020949</p>	<p>Oct. 10, 2003</p>	<p>Res judicata, "virtual representation"</p>	<p>TC entered summary judgment in favor of the propane defendant.</p>	<p>Reversed</p>	<p>SC concluded that the relationship between the Morris plaintiffs and the McDill plaintiffs does not constitute a sufficient basis for res judicata.</p>

<p><u>Ex parte Ala. Dept. Of Youth Services, No. 1020480</u></p>	<p>Oct. 10, 2003</p>	<p>Agent-state immunity</p>	<p>TC denied motions to dismiss</p>	<p>SC affirmed TC's denial</p>	<p>SC held that 11th amendment immunity, not state immunity, governs a Title IV claim; Wood has not shown that he has a clear legal right to dismissal of any of these state-law claims on the basis of state-agent immunity.</p>
<p><u>City of Prattville v. Corley, No. 1020075</u></p>	<p>Oct. 10, 2003</p>	<p>Damages for tort claims for flood damages against municipalities</p>	<p>TC entered an order stating that the issue of damages for tort claims was controlled by Ala. Code 11-93-2 and did not limit the City's aggregate liability for property damage</p>	<p>SC affirmed</p>	<p>The 1994 amendment to § 11-47-190, Ala. Code 1975, did not repeal §11-93-2, Ala. Code 1975, and does not operate to limit the City's aggregate liability to \$300,000 per occurrence on property-damage claims brought by the residents in tort under §11-47-190.</p>

<u>East Alabama Behavioral Medicine, P.C. v. Chancey</u> , No. 1020828	Oct. 10, 2003	Vicarious liability under the doctrine of respondeat superior	Denied East Alabama's post-judgment motions; entered judgment for \$1.00 in compensatory damages and \$495,000 in punitive damages	Reversed	SC held that TC erred in refusing to grant JML.
<u>United Wisconsin Life Ins. v. Tankersley</u> No. 1021128	Oct. 10, 2003	Insurance fraud arbitration	Denied United Wisconsin's motions to compel arbitration	Affirmed	The SC held that the arbitration provision here is not broad enough to encompass the plaintiff's claims.
<u>Bowen Security v. Pest Control, Inc.</u> No.	Oct. 3, 2003	Interstate commerce; arbitration	TC ordered Arbitration	SC reversed and then affirmed the TC at a later	The SC had originally reversed the trial court's order compelling arbitration by application of sisters of the <i>Visitation v. Cochran</i>

1010783				time	<i>Plastering Co.</i> , 775 So.2d 759 (Ala. 2000). On rehearing the Court changed its decision and affirmed on the authority of the US Supreme Court's disapproval of Sisters of the Visitation standard in <i>Citizens Bank v. Alafabco</i> , 123 S.Ct. 2037 (2003).
<u>Ex parte Bender Shipbuilding and Repair Co.</u> , NO. 10206545	Oct. 3, 2003	Long-shoreman suit for work comp benefits	TC entered judgment on jury's verdict	Reversed	The availability of a light duty work program is an economic benefit an employer can offer employees in lieu of its obligation to pay temporary total disability benefits.

<u>Providian Nat'l Bank v. Screws, No. 1020668</u>	Oct. 3, 2003	Arbitration	Denied motion to compel arbitration	Reversed	SC held provision not unconscionable
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<p><u>Royal Inc. v. Thomas</u>, No. 1011518</p>	<p>Oct. 3, 2003</p>	<p>Insurance coverage</p>	<p>TC certified two questions: 1. Is the limiting clause in Lloyd's Garage Liability policy valid under Alabama law; 2. If so, what coverage if any is provided to the driver of the automobile that was furnished by Carl Cannon Chevy Olds under the language of Section VI.6 of Royal's Big Shield Commercial Catastrophe policy?</p>	<p>Affirmed first question; as to the second question, Thomas's drop down provision does not apply to coverage Royal owes Thomas.</p>	<p>SC held that 1. the Lloyd's London garage policy exclusion validly excludes Thomas as an insured under that policy; 2. The Royal umbrella policy affords Thomas primary coverage for the collision, and 3. the drop down provision in the Royal policy has no application to the coverage for Thomas under the Royal policy.</p>
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<u>Polaris Sales, Inc. v. Heritage Imports, Inc.</u> , No. 1021166	Oct. 3, 2003	Arbitration issue	TC vacated its motion to compel arbitration	reversed	Plain language of agreement show arbitration is not unconscionable
<u>Ex parte Dillard Department Stores</u> , No. 1021236	Oct. 3, 2002	Discovery	TC reinstated its motion to compel discovery	SC held the TC exceeded its discretion in compelling discovery.	SC held that the burden imposed on Dillard's by the discovery order is far out of proportion to any benefit requested.

<u>Eagle Products, Inc. v. Glasscock</u> , No. 10200206	Oct. 3, 2003	Misrepresentation of facts and deceit	Jury awarded plaintiff Glasscock \$500,000 in damages; TC denied defendant's post-trial motion	Reversed and rendered judgment for defendant.	SC held that the distributor contract was terminable at will.
<u>Bradley v. Miller</u> , No. 1012133	Sept. 26, 2003	Med mal; bad delivery	Summary Judgment in favor of Doctor	Affirmed	SC held plaintiffs failed to meet their burden of proof on issue of causation.

<u>University Federal Credit Union v. Grayson, No. 1020042</u>	Sept. 26, 2003	Class action	Certified	Reversed	Failure to prove commonality
<u>Ex parte USX Corp. No. 1020684</u>	Sept. 26, 2003	Work comp		Granted certiorari review to determine whether burden of proof in carpal tunnel syndrome claims is clear and convincing evidence	SC held that the burden of proof depends on whether the injury was caused by traumatic accident or by a gradual deterioration or cumulative stress. If gradual, then clear and convincing standard.

<p><u>Akins Funeral Home, Inc. v. Miller</u>, Nos. 1020198</p>	<p>Sept. 26, 2003</p>	<p>Body switch; excessive damages</p>	<p>Entered judgment for \$650,000 in compensatory and \$300,000 in punitive damages</p>	<p>Affirmed</p>	<p>TC did not err in its denial</p>
<p><u>Wooten v. Ivey</u>, No. 1011384</p>	<p>Sept. 19, 2003</p>	<p>Right to trial by jury; damages and equitable relief</p>	<p>TC entered a judgment on plaintiff's claim for injunctive relief, finding defendant's hog farming operation constitutes a nuisance</p>	<p>Reversed.</p>	<p>SC held that TC correctly submitted the issues of the existence of a nuisance and money damages to the jury. However, once the jury decided that the hog farm did not constitute a nuisance, the TC erred in entering an order and approval of an odor-management plan.</p>

<p><u>Liberty Nat'l Life Ins. Co. v. University of AL Health Services Foundation</u> No. 1012346</p>	<p>Sept. 19, 2003</p>	<p>Prima facie tort</p>	<p>TC granted UAB's motion to dismiss</p>	<p>SC affirmed in part reversed in part</p>	<p>There was a group that met party qualifications under rule19(a). The court declined to determine whether Alabama should recognize prima facie tort as a cause of action.</p>
<p><u>Onzel v. Haworth</u>, No. 1012339</p>	<p>Sept. 19, 2003</p>	<p>Negligence; med mal</p>	<p>TC entered a summary judgment for defendant doctor on all claims</p>	<p>Affirmed summary judgment on the negligent and wanton claim; reversed summary judgment on the lack of consent claim</p>	<p>Whether or not the summary judgment was reversed depended on whether there existed a genuine issue of material fact on the issue in question.</p>

<p><u>Serra Toyota v. Johnson</u>, No. 1021051</p>	<p>Sept. 19, 2003</p>	<p>Arbitration</p>	<p>Denied motion to compel arbitration</p>	<p>Reversed</p>	<p>The transaction sufficiently involved interstate commerce.</p>
<p><u>Ex parte First Alabama Bank</u> No. 1020855</p>	<p>Sept. 12, 2003</p>	<p>Judicial estoppel, negligence/ conversion</p>	<p>TC entered summary judgment in favor of defendant. Ct of Civ App reversed.</p>	<p>Reversed—it affirmed the TC.</p>	<p>SC held the judgment that the argument based on judicial estoppel was not waived because the Bank had asserted the defense of estoppel in its answer. The Court joined the mainstream of jurisprudence in dealing with the doctrine of judicial estoppel. The Court overruled <i>Porter v. Jolly</i>, 564 So.2d 434.</p>

<u>Alfa Life Ins. v. Green</u> , No. 1011798	Sept. 12, 2003	Fraud; reasonable reliance	Entered judgment for \$300,000 in compensatory and \$900,000 punitive damages	Reversed & rendered a judgment for defendant	The Greens failed to demonstrate that their reliance on Alfa's representations were reasonable.
<u>Zaden v. Elkus</u> , No. 101249	Sept. 12, 2003	Discovery; med mal	TR enters judgment on a jury verdict in favor of Doctor	Affirmed	SC says plaintiff not entitled to prove defendant MD. and witness insured by same carrier.

<u>Washington v. Bill Heard Chev. Inc.</u> , No. 1020285	Sept. 12, 2003	Arbitration	TC dismissed claim for declaratory relief	Reversed	SC held that TC committed reversible error in its 12(b)(6) dismissal
<u>Tyson Foods, Inc. v. McCollum</u> , No. 1020829,	Sept. 12, 2003	Work Comp	Denied Tyson Food's JML motion	Reversed	SC held that there was no proof employee was fired because of work comp claim.

<u>Avis Rent A Car Systems v. Heilman</u> , No. 1020667	Sept. 12, 2003	Class action	Certified class	Reversed in part; affirmed in part	SC said OK to certify class on breach of contract but not on unjust enrichment
<u>Capitol Chev. & Imports v. Payne</u> , No. 1021027	Sept. 12, 2003	Arbitration	Denied motion to compel	Affirmed	The arbitration agreement covers only disputes that more closely relate to the initial purchase and financing of the Catera

<p><u>Ex parte Troncalli Chrysler</u>, No. 1021135</p>	<p>Sept. 12, 2003</p>	<p>Conspiracy to commit fraud, bad faith, misrepresentation, deceit</p>	<p>TC denied defendant's motion to dismiss</p>	<p>SC directed the TC to grant defendant's motion to dismiss for lack of personal jurisdiction</p>	<p>The SC held that a computer database locator was not an act made by Troncalli purposefully directed to Alabama entities. The allegations of Case's complaint, the Court held, did not support a colorable claim of general jurisdiction, and he was therefore not entitled to discovery.</p>
<p><u>Ex parte Sawyer</u> No. 1020897</p>	<p>Sept. 5, 2003</p>	<p>Immunity</p>	<p>TC dismissed the claims against Sawyer in her official capacity but denied defendant's motion for dismissal concerning her individual claims.</p>	<p>SC granted defendant's writ of mandamus.</p>	<p>SC granted defendant's writ of mandamus and directed the trial court to enter a summary judgment in favor of Sawyer on the claims against her in her individual capacity.</p>

<p><u>Jones v. Alfa Mut. Ins. Co.</u>, No. 1010565</p>	<p>Sept. 5, 2003</p>	<p>Insurance; bad faith</p>	<p>Entered summary judgments for all of the defendants on all remaining claims</p>	<p>Reversed in part and affirmed in part</p>	<p>SC reversed the 12b6 dismissal of Joneses' bad faith claim against Alfa and affirmed all others.</p>
<p><u>Hudson v. Outlet Rental Car</u>, No. 1020231</p>	<p>Sept. 5, 2003</p>	<p>Arbitration</p>	<p>Granted motion to compel arbitration</p>	<p>Reversed</p>	<p>Hudson's fraud in the factum claim is to be resolved by trial court because fraud in the factum claims test the "very existence" of a contract</p>

<u>Watts. v. Sentry Ins., No. 1020995</u>	Sept. 5, 2003	Uninsured Motorist	TC granted summary judgment in favor of Sentry	Reversed	The Court held that an employee who is receiving workers' compensation benefits from his employer for injuries he sustained in a motor vehicle accident that occurred while the employee was driving a vehicle belonging to employer can recover U/M benefits...
<u>Clement Contracting Group, Inc. v. Coating Sys. L.L.C., No. 1021337</u>	Sept. 5, 2003	Arbitration	Denied motion to compel arbitration	Affirmed	Individual defendant not subject to arbitration clause in his employers contract with a 3 rd party.
<u>Alafabco Inc. v. Citizen's bank, No. 1010703</u>	Aug. 29, 2003	Arbitration; interstate commerce		Supreme Court vacated its previous judgment, which reversed the trial court's	The SC affirmed the TC's order directing the parties to proceed to arbitration.

				order granting the motion of The Citizens Bank to compel Alafabco to arbitrate	
<u>Lanier Worldwide, Inc. v. Clouse</u> , No. 10111194	August 29, 2003	Arbitration	TC denied motion to compel arbitration.	Reversed.	SC held that because the party to be charged by enforcement of the contract is Clouse, the lack of a signature by an agent of Lanier on the Order Agreement does not render the arbitration provisions unenforceable in the case. The Court held that the performance by Lanier can and does evidence its acceptance.
<u>McDole v. Alfa Mut. Ins. Co.</u> , No. 1020539	Aug. 22, 2003	Uninsured motorist	TC granted ALFA's motion to dismiss	Affirmed	SC could not find any allegations that would support her tort-of-outrage claim. Because the breach of contract claim fails as a matter of law, her claim of a bad faith refusal to pay fails as a matter of law

<p><u>Whatley v. Reece</u>, No. 1011485</p>	<p>Aug. 22, 2003</p>	<p>Caveat emptor</p>	<p>TC denied summary judgment</p>	<p>Affirmed.</p>	<p>Since plaintiff contracted with Whatley defendant's for construction of the home, he was in privity of contract with them, and Reese's temporary transfer of legal title to Hyché did not alter the privity of contract that existed between Reese and the Whatley defendants.</p>
<p><u>Reynolds v. Colonial Bank</u> No. 1020186 & 1020187</p>	<p>Aug. 15, 2003</p>	<p>Jurisdiction, fraud</p>	<p>TC entered a condemnation order condemning the \$6,900,000 settlement amount</p>	<p>Reversed and Remanded. SC held TC lacked jurisdiction to enter its condemnation order and to award attorney fees and expenses.</p>	<p>The Court held the trial court's order condemning the settlement amount and its award of attorney fees and expenses were not "collateral" to the pending appeal.</p>

<p><u>Grambrone v. Douglas</u> No. 1020234</p>	<p>Aug. 1, 2003</p>	<p>Immunity, personal injury</p>	<p>TC entered a summary judgment in the faculty members' favor based on State agent immunity.</p>	<p>SC affirmed the summary judgment.</p>	<p>SC held that defendant's met their burden of establishing that their actions and decisions involved functions entitling them to immunity.</p>
<p><u>Tanner & Co. v. State Farm,</u> No. 1010888</p>	<p>Aug. 1, 2003</p>	<p>Declaratory judgment</p>	<p>TC entered summary judgment for State Farm and held SF had no duty to defend Plaintiff in lawsuit.</p>	<p>Reversed in part; affirmed in part</p>	<p>SC reversed SJ as it declares that State Farm did not have a duty to defend Tanner against claims of misrepresentation. SC affirmed SJ insofar as it declares that State Farm does not have duty to represent Tanner against claims of intentional torts.</p>

<u>Ex parte Haralson</u> No. 1020783	July 18, 2003	Immunity, car wreck	TC denied defendant's motion for a summary judgment.	SC granted defendant's petition.	SC directed the trial court to enter a summary judgment in favor of Deputy Haralson.
<u>Newman v. Cole</u> , No. 1012110	July 18, 2003	Wrongful death wantonness and willful intentional conduct/ parent responsible for the death of child	TC granted the defendant's motion to dismiss the complaint.		SC created additional exception to the doctrine of parental immunity and held that a further exception to the doctrine should be recognized where it is shown by clear and convincing evidence that a parent's willful and intentional injury caused the death of his or her child.

<u>Borders v. City of Huntsville</u> , No. 10204	July 11, 2003	Assault and battery, false imprisonment	TC granted motion to dismiss and entered a summary judgment I	Summary judgment improper	SC held that TC improperly dismissed claims.
<u>Hales v. ProEquities, Inc.</u> No. 1011015	July 11, 2003	Arbitration	Granted motion to compel arbitration	Reversed	The grant or denial of a motion to compel arbitration opposed on the ground of waiver is subject to a de novo review on appeal.

<u>Petty-Fitzmaurice v. Steen</u> , No. 1020560	July 11, 2003	New trial	TC entered judgment for \$2,600,000 in compensatory damages.	SC reversed and remanded for a new trial	SC held that a judge cannot answer juror's questions w/out counsel present.
<u>Ex parte Ebbers</u> , No. 1020931	July 11, 2003	Stay of civil action where there are potential criminal proceedings against a defendant.	Judge denied the Bank defendants' motion for a stay		The SC held that judge exceeded his discretion n denying Ebbers stay but did not exceed discretion in denying a stay to the Bank defendant.

<p><u>Waddell & Reed, Inc. v. United Investors Life Ins. Co.</u> No. 1012054</p>	<p>July 3, 2003</p>	<p>Tortious interference</p>	<p>Jury awarded \$50,000,000 in compensatory damages and no punitive damages.</p>	<p>Reversed in part.</p>	<p>SC remanded the case for a new trial on UILIC's claims conversion, breach of contract and fraudulent suppression as to the development of the Advantage Gold policy. The Court affirmed the judgment in UILIC's favor on W&R counterclaims and affirmed the declaratory judgment in UILIC's favor concerning the July 1999 letter.</p>
<p><u>Spain v. Brown and Williamson,</u> No. 1000143</p>	<p>June 30, 2003</p>	<p>Wantonness, tobacco</p>	<p>Certified Question from US Court App. 11th Cir.</p>		<p>SC held that under Ala Code., 7-2-725, any injury occurring from breach of an implied warranty within the four year period before Carolyn's death on August 5, 1999, would be actionable. SC declined to answer the remaining questions.</p>

<p><u>Butler v. Town of Argo</u>, No. 1001496</p>	<p>June 30, 2004</p>	<p>Defamation, slander, libel</p>	<p>375,00 in compensatory damages and 125,000 in punitive damages</p>	<p>SC held that TC should have entered a JML</p>	
<p><u>Tillman v. R.J. Reynolds Tobacco Co.</u>, No. 1001664</p>	<p>June 30, 2003</p>	<p>Certified Question</p>			<p>The plurality opinion noted that the AEMLD is an example of judicial legislation, not of legislative enactment and the Court should not presume to so define the boundaries of the judicially created AEMLD so that it subsumes the common law tort actions of negligence and wantonness against the retailer defendants.</p>

<u>Wolf Motor Co. v. White</u> , No. 101845	June 27, 2003	Arbitration	Denied Wolff's motion to compel arbitration	reversed	SC held that the TC erred when it denied the motion to compel.
<u>Gayfer Montgomery Fair Co. v. Austin</u> , No. 1012159	June 27, 2003	Arbitration	Denied motion to compel arbitration	reversed	

<u>Board of Water and Sewer v. Bill Harbert Const. Co.</u> , No. 1012198	June 27, 2003	Arbitration	Denied arbitration	Affirmed	SC held that TC did not err in denying arbitration.
<u>Springhill v. Dixon</u> , No. 1011120	June 27, 2003	Med Mal	TC entered judgment against Springhill Hospital	Affirmed without opinion	

<u>Ex parte Southern Energy Homes, Inc.</u> , No. 1020037	June 27, 2003	Work comp	TC awarded 363,684.32 for her disability	Reversed	SC concluded that Riddle failed to present substantial evidence of medical causation between her incidents and her condition
<u>Nationwide Ins. Co. v. Rhodes</u> , No. 1020160	June 27, 2003	Uninsured motorist	Summary Judgment for Rhodes	Reversed	The TC erred in finding that the language of the Nationwide policy was ambiguous.
<u>Ex parte Fort James Operating Co.</u> , No.	June 27, 2003	Work comp	Ct of Civ App affirmed the TC's attorney fee award, but	Quashed the writ of certiorari	SC held that Ft. James lacks standing because Ft. James is not responsible for the payment of either attorney-fee award of which

1020678			reversed TC's order that Fort James pay the portion of the fee calculated on the setoff		it complains.
<u>Ex parte</u> <u>Phenix Rental</u> <u>Ctr., No.</u> 1012284	June 20, 2003	Work comp	TC declared Batiz to be totally and permanently disabled	Reversed	SC held that before the TC can make a disability determination, the employee must have reached MMI.

<u>Lee v. Minute Stop, Inc.</u> , No. 1012303	June 20, 2003	Defamation	TC granted Defendants' summary judgment motions.	Affirmed	SC held that the TC did not err in entering summary judgment for Nobles and Minute Stop.
<u>Ex parte Progress Rail Serv. Corp.</u> , No. 1012357	June 20, 2003	Work comp	TC denied Progress Rail's motion to dismiss	Granted writ of mandamus	SC directed TC to dismiss Progress rail as a party to the action. Employer immunity applies to intention and willful conduct.

<u>Ex parte Scheffel</u> , No 1020459	June 13, 2003	Negligence, assumption of the risk	Summary judgment in favor of defendants	Affirmed	Scheffel was contributorily negligent. SC holds total darkness to be an open and obvious danger.
<u>Ex parte Walter Industries</u> , No. 1011467	June 6, 2003	Tuscaloosa Mining Case	Denied Defendant's venue motion	Granted petition	SC held that venue in the Bessemer Division is not proper in a case where the cause of action arose outside Jefferson County. Tuscaloosa was a proper venue.

<u>Ronderos v. Rowell</u> , No. 1020080	June 6, 2003	Med Mal	TC denied the doctor's motion and certified the issue for an interlocutory appeal	Affirmed	SC held that the TC did not exceed its discretion in finding that the doctor did not meet the criteria for a specialist (Ala. Code §6-5-548).
<u>Ex parte Nall</u> No. 1012099	June 6, 2003	State agent immunity, personal injury	TC denied summary judgment.	SC granted writ of mandamus.	SC held that defendant coaches were entitled to State agent immunity because they were exercising their judgment in discharging their duties in educating students.

<u>Ex parte</u> <u>Fidelity Bank,</u> No. 1030483	June 4, 20003	Personal jurisdiction; waiver; failed investments			
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