



And The Defense Wins

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DRI members [Leland S. Smith III](#) and [Bobby Stephenson](#), shareholders with **Wilkins Tipton, P.A.**, in Jackson, Mississippi, recently secured a summary judgment on behalf of their client in a case filed by 19 plaintiffs who claimed they became ill after eating a meal at the defendant's restaurant. The U.S. District Court for the Northern District of Mississippi ruled "to conclude that the plaintiffs suffered gastroenteritis at the hands of undercooked food prepared by the defendant would be speculative at best."

One particularly interesting aspect of the case concerned the apparent attempt at "forum shopping" by the plaintiffs. Initially, two plaintiffs filed suit in state court. The defendant successfully removed the case to federal court. The plaintiffs, in varying combinations, thereafter filed four subsequent complaints in state court in an effort to avoid federal jurisdiction. Three separate federal judges held that the defendant properly removed each of the five separately filed lawsuits and retained jurisdiction. After rejecting the plaintiffs' apparent attempts at forum manipulation, the federal court consolidated the five lawsuits.

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