

Medical Malpractice

Verdicts, Settlements & Experts

Vol. 23, No. 9

The Nation's Largest Malpractice Jury Verdict Reporter

September 2007

HIGHLIGHTS

- Failure to Empty Stomach Prior to Surgery for Small Bowel Obstruction — Aspiration of Vomitus — Mild Brain Injury — \$400,000 Ohio Verdict, p. 3
- Failure to Diagnose Lung Cancer — Death — \$1.25 Million Massachusetts Settlement, p. 8
- Failure to Diagnose Bacterial Spinal Infection — Death — \$1.25 Million Illinois Verdict, p. 9
- Failure to Timely Treat Elevated Bleeding Times — Death From Cerebellar Hemorrhage — \$325,000 Massachusetts Settlement, p. 12
- Failure to Provide Sitter for Man Following Hip Surgery Who Suffered Alcohol Withdrawal — Fall — \$850,000 North Carolina Settlement, p. 18
- Failure to Order Pulse Oximeter for Woman With Varicella Pneumonia — Woman Found on Floor With Low Oxygen Saturation Level — Defendant Claims Pulse Oximeter Wasn't Available and Woman Kept Taking Off Oxygen Mask — \$3.6 Million Michigan Verdict Following Confidential Settlement With Hospital and Some Physicians, p. 18
- Failure to Properly Monitor Man with Guillian Barre Syndrome — Deterioration Not Properly Treated — Anoxic Brain Injury — Persistent Vegetative State — \$3 Million Tennessee Settlement, p. 21
- Internist Fails to Note Lung Cancer on Chest X-Ray — Diagnosis Made Sixteen Months Later — Death — Tennessee Defense Verdict, p. 21
- Failure to Properly Monitor Inmate's Coumadin Blamed for Stroke — \$3.1 Million Gross Verdict in Illinois, p. 21
- Excessive Steroid Prescriptions Blamed for Development of Cushing's Syndrome and Diabetic Peripheral Neuropathy — \$594,618 Post-Verdict Settlement in Ohio, p. 21
- Failure to Remove Tumor From Vertebra During Surgery — Failure to Order MRI After Surgery to Locate Tumor — Tumor Grows and is Removed Six Months Later — Paralysis Below Waist — \$1.3 Million Verdict in North Carolina, p. 29
- * • Woman Claims Instruments Broken During Hip Arthroscopy — Damage to Cartilage Results in Need for Corrective Surgery and Need for Crutch — \$2.15 Million Florida Verdict, p. 40
- Failure to Order MRI for Child With Neck Pain, Headaches and Visual Disturbances — Astrocytoma Later Diagnosed — Ventriculostomy and Craniotomy Lead to Cognitive Deficits and Other Injuries — \$10 Million Colorado Verdict, p. 43
- Failure to Note Mass on CT Scan — Recurrent Liposarcoma Ultimately Leads to Death — \$600,000 North Dakota Settlement, p. 46

Frederick L. Risker v. Mahnaz Naveed Shah, M.D., Kelsey-Seybold Medical Group, PA, et al., Harris County (TX) District Court, Case No. 2003-49565. Barry M. Barnes, Jermaine S. Thomas and Sylvester Turner, Barnes and Turner, Houston, TX for the plaintiff. Nicole G. Andres, Jennifer R. Grillo and John S. Serpe, Sheehy, Serpe and Ware, Houston, TX for Gramercy Surgery Center. Rainy DeMoss, Kacal, Adams and Law, Houston, TX for Kelsey-Seybold Medical Group and Mahnaz Naveed Shah.

ORTHOPEDICS

Woman Claims Instruments Broken During Hip Arthroscopy — Damage to Cartilage Results in Need for Corrective Surgery and Need for Crutch — \$2.15 Million Florida Verdict. We thank Scott Schlesinger, attorney for the plaintiff, for sending us a report of this case. The plaintiff, a twenty-six year-old ballet dancer, was referred to defendant Dr. Philippon due to hip pain. Dr. Philippon had just recently finished his orthopedic training and was intending to focus on arthroscopic hip surgery. The plaintiff was scheduled for arthroscopic hip surgery at Holy Cross Hospital. At the time Dr. Philippon was not credentialed for that surgery at that hospital. During the procedure, Dr. Philippon broke two bone shaver instruments in the hip, damaging the smooth cartilage on her hip surfaces. The plaintiff continued to complain of pain after the surgery and she went to another surgeon. That was when the plaintiff learned that instruments had been broken in the hip and that the hip cartilage was damaged. The plaintiff underwent corrective surgery, but she is still unable to stay in one position longer than fifteen minutes and walks with a crutch. She is also in constant pain. The defendant denied any negligence. A \$2,150,000 verdict was returned, with the jury finding Dr. Philippon forty-three percent at fault and Holy Cross Hospital fifty-seven percent at fault. **Plaintiff's Expert:** Robert Spector, M.D., orthopedic surgery, Los Angeles, CA. **Shreffler v. Philippon and Holy Cross Hospital**, 17th Judicial Circuit (FL) Circuit Court, Case No. CACE 99-013346 (05). Crane A. Johnstone, Scott M. Newmark, Scott Schlesinger, Ft. Lauderdale, FL for the plaintiff. Susan J. Cole, Bice Cole Law Firm, Coral Gables, FL and Michael A. Petruccelli, Fann and Petruccelli, Ft. Lauderdale, FL for the defendant.

X-Rays of Shoulder Following Auto Collision Not Properly Read and Physical Therapy Improperly Prescribed — Posterior Disc Dislocation Not Timely Diagnosed — Restriction Motion on Shoulder With Significant Disability Due to Disabled Arm on Other Side From Stroke — Confidential Settlement With Radiologist — \$857,000 Verdict Against Orthopedist in Pennsylvania. The plaintiff, a fifty-five year-old man, was in a motor vehicle collision in August 2002 and was treated immediately at an emergency room. Radiologist Dr. Alvarez performed an x-ray on the right shoulder which was read as normal. The plaintiff followed up nine days later with orthopedist Dr. Avart. The plaintiff was prescribed physical therapy for three months. In December 2002 the plaintiff still had pain in his right shoulder and sought a second orthopedic opinion. This orthopedist diagnosed a posterior disc dislocation in the right shoulder, requiring surgery. The plaintiff returned to Dr. Avart, who performed an MRI on the shoulder, determining that there was in fact a posterior disc dislocation. The plaintiff then underwent rotator cuff repair surgery. The plaintiff claims that he continues to suffer from pain and restriction of motion in the shoulder. The loss of function in the right shoulder and arm was particularly disabling to the plaintiff because his left arm was useless from a prior stroke. The plaintiff alleged negligence by Dr. Alvarez in misreading the original x-ray. Dr. Alvarez settled for a confidential amount prior to trial. The plaintiff claimed that Dr. Avart should have been able to diagnose the dislocation from a physical exam and should have read the x-rays himself before ordering physical therapy. Dr. Avart claimed that all the negligence in the matter was from Dr. Alvarez' misreading of the x-ray. According to a published account a \$857,000 verdict was returned. **Plaintiff's Expert:** Evan H. Dillon, M.D., radiology, New York, NY. David M. Smith, M.D., orthopedic surgery, Princeton, NJ. **Michele Procaccino v. Mark Avart, D.O., Philadelphia Orthopedic Group and Orlando Alvarez, M.D.**, Philadelphia County (PA) Court of Common Pleas, Case No. 040802910. Daniel L. Thistle, Philadelphia, PA for the plaintiff. Donald N. Camhi, Post and Schell, Philadelphia, PA for Dr. Alvarez. Robert C. Pugh and Paul C. Troy, Kane, Pugh, Knoell, et al., Philadelphia, PA for Dr. Avart and Philadelphia Orthopedic Group.

Failure to Note Decubitus Ulcer From Cast and Development of Contracture Following Fractured Ankle — Lack of Wound Healing Ultimately Leads to Above-Knee Amputation — Defendants Claim Peripheral Vascular Disease for Amputation — \$900,000 Settlement With Rehabilitation Hospital — \$6 Million Gross Verdict in New York. The plaintiff, age sixty-six, suffered right-side hemiparesis and went to the hospital in May 1996 after falling and fracturing his right ankle. Open reduction and internal fixation were performed by the hospital's chief of orthopedics, Dr. Christopher Michelsen, and a cast was placed on the right leg, extending from below the knee to just above the toes. The plaintiff was hospitalized for ten days and then discharged to a rehabilitation center. At the rehabilitation center the plaintiff was seen by Dr. Frank Maselli, Dr. Carl Franzetti and other physicians. It was noted that the plaintiff had developed a severe flexion contracture of the right lower extremity and worsening of an area at the back of the knee, which was noted to be a stage-III or stage-IV decubitus ulcer. The plaintiff underwent physical and occupational therapy for a little over two weeks. The plaintiff claimed that the therapy should not have been stopped and that as a result of the premature termination, his contracture worsened and he developed infections of areas behind the knee, between the toes and under