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From the Courts: Jury Verdicts & Settlements

\$11.4 million awarded in suit against hospital

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By: Review staff & VerdictSearch

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Case: Sam Sangouchitte and Matilda Sangouchitte v. Columbia/JFK Medical Center L.P. d.b.a. JFK Medical Center

Case no.: 50 2004 CA 000730 XXXXMB, Palm Beach Circuit Court

Description: Negligence

Filing date: Jan. 22, 2004

Trial date: July 10, 2006

Judge: Amy Smith

Plaintiff lawyers: Nancy La Vista and David Prather, partners at Lytal Reiter Clark Fountain & Williams, West Palm Beach

Defense lawyers: Todd Ehrenreich and Lawrence Burkhalter, managing partner and associate at Weinberg Wheeler Hudgins Gunn & Dial, Miami

Details: In 1998, Sam Sangouchitte, a jewelry salesman, suffered prolonged dizziness on returning from a cruise and saw Dr. Jacques Farkas, a neurosurgeon at JFK Medical Center. According to the complaint, Farkas recommended anterior cervical surgery because of a spinal problem.

During the August 1999 procedure, Farkas inserted several rods along the cervical spine in Sangouchitte's neck. But Sangouchitte, now 52, continued to suffer clumsiness, numbness and burning in his hands. In October 2001, a different neurosurgeon found that the rods had migrated into his cerebellum. He currently is confined to a wheelchair.

Sangouchitte sued both Dr. Farkas and the hospital for negligence in separate suits. The cases were consolidated for discovery.

Farkas' professional liability insurance did not cover this incident because of the time frame. Farkas filed for Chapter 11 bankruptcy in October 2004. According to Barry Balmuth of Lytal Reiter Clark Fountain & Williams, who is representing the Sangouchittes in the bankruptcy case, Farkas converted his case to a Chapter 7.

Balmuth said his clients moved to dismiss the bankruptcy filing. In May, the bankruptcy judge ruled that no requirement of good faith is needed in Chapter 7. The Sangouchittes appealed and are awaiting a ruling.

La Vista said she purposely filed separate complaints against the hospital and the doctor because she didn't want the case against the hospital stayed if the doctor declared bankruptcy. The trial involved only the hospital as a defendant. The case

against Farkas has been stayed depending the outcome of his bankruptcy.

Plaintiff case: The plaintiffs argued that Farkas did not have the proper training to do the rod implant procedure. Therefore, according to La Vista, the hospital should not have given him credentials.

Defense case: Burkhalter declined to comment. According to La Vista, the defense attorneys argued that the surgeon, not the hospital, should be held liable for any medical negligence in this case.

Outcome: After a 2 1/2-week trial, the six-person jury deliberated for a day and a half and found that JFK Medical Center negligently credentialed Farkas. The jurors awarded the Sangouchittes a total of \$11.4 million. The jury awarded Sam Sangouchitte \$4.7 million for past and future medical expenses, \$240,000 for lost earning ability and \$3.6 million for past and future pain and suffering. His wife, Matilda, was awarded \$2.2 million for loss of her husband's comfort and \$725,000 for loss of her husband's services.

Post-verdict: JFK spokeswoman Nicole Baxter said that the medical center plans to appeal.

Comments: La Vista said the case demonstrates the importance of the new state law providing access to hospital records on adverse medical incidents. "It now allows us to get the credential file for the doctor," she said. "Hopefully now consumers can confirm that their doctors are competent to do their surgeries."

— Jordana Mishory

Slip and fall

Broward Circuit Court

Jury awards resident for fall caused by loose concrete

A jury awarded \$76,740 to a woman who fractured her shoulder when she fell on a sidewalk at her condo complex.

Sharon Varenkamp, a retiree in her 60s, slipped on loose concrete. Her lawyer claimed that the property manager, Lyon Management Group Inc., ground the sidewalk to repair it, but instead caused a crack that resulted in the loose concrete. Varenkamp claimed that she has chronic pain and she may need surgery.

Defense counsel argued that Varenkamp didn't fall on any loose concrete, noting that she didn't mention it in an incident report.

Case: Varenkamp v. Lyon Management Group Inc.

Case no.: 05-04531 (05)

Plaintiff lawyer: Ronald M. Simon, Simon & D'Alemberte, Miami

Defense lawyer: Seth R. Goldberg, Conroy Simberg Gannon Krevans & Abel, Hollywood

Premises liability

Duval Circuit Court

Host not liable for teen shot, killed after leaving party

A jury rejected a claim that a minor who threw a party at his father's house was liable for a guest who was shot and killed after he was thrown out for fighting.

The estate of Tavoris Jones, 19, sued Roger Sears II who hosted the party where underage guests were drinking without his father's knowledge. Plaintiff counsel argued that Sears had a duty to protect Jones, and the prudent measure was for Sears to keep him in the home after the altercation occurred.

Defense counsel claimed the shooting was not foreseeable and there was no connection between it and the party. Because Jones' killer was never caught, no one could say if the party was any factor in Jones' death, defense counsel argued.

Case: Estate of Jones v. Sears

Case no.: 16-2004-ca-003673 cv-c

Plaintiff lawyer: Suzanne Bass, Law Offices of Suzanne Bass, Jacksonville

Defense lawyer: Carl B. Schwait, Dell Graham, Gainesville

Medical malpractice

U.S. District Court — Jacksonville

Doctors not held responsible for patient's fatal pancreatitis

A jury rejected an estate's claim that U.S. Naval hospital doctors were negligent for performing a procedure that resulted in fatal pancreatitis.

Attorneys for the estate of Willie Jackson, 57, argued that because he had medication-induced pancreatitis, his doctors should have known it was wrong to do an ERCP, a procedure in which a scope and camera go through the esophagus to monitor the pancreas.

The defense argued that while the evidence suggested medication induction, there were still several other conditions and diseases that could have caused his pancreatitis. The defense also argued that Jackson was aware of the risks involved in the procedure and that fatal pancreatitis was a known risk.

Case: Jackson v. United States of America

Case no.: 3:04-cv-00444-TJC-HTS

Plaintiff lawyers: Michael Archuleta and Jamal K. Alsaffar, Michael Archuleta Law Firm, Austin, Texas

Defense lawyer: Ronnie S. Carter, Department of Justice, Jacksonville

Orange Circuit Court

OB-GYN not liable in stillbirth

A jury rejected a couple's claim that their OB-GYN could have prevented their stillbirth. Rebekah and Rodrique Thomas, both in their 20s, sued Dr. Carlos Dieguez.

The mother, who was a week overdue, went to the hospital with decreased fetal movement. A nurse took a stress contraction test and phoned Dieguez to say the results were within normal limits, and then he discharged her. Dieguez delivered the stillborn two days later.

Their lawyer argued that Dieguez should have checked the monitor strip instead of relying on the nurse's report. Dieguez claimed he was right to rely on the nurse.

The defense counsel argued that the stillbirth was unavoidable because it resulted from an infection that started three days prior to her arrival at the hospital.

Case: Thomas v. Dieguez

Case no.: CI 2000-CA-2557

Plaintiff lawyer: David R. Best, Best & Anderson, Orlando

Defense lawyer: Vance R. Dawson and Juan A. Ruiz, Rissman Barrett Hurt Donahue & McLain, Orlando

Pinellas Circuit Court

Lung puncture caused by doctor results in \$235,468 for patient

A jury awarded \$235,468 to a woman who sustained left-sided pneumothorax after an anesthesiologist punctured her lung while injecting a nerve block.

Montoya Kelly, a 25-year-old child care worker, sued Dr. Sardha Perera and Florida Pain Management in St. Petersburg. Her attorney argued that there were no reasonable medical indications for the nerve blocks and Perera negligently punctured her lung.

The defense argued that pneumothorax is a known risk of undergoing nerve blocks.

Case: Kelly v. Perera

Case no.: 04-5590

Plaintiff lawyer: John W. Williams, St. Petersburg

Defense lawyer: Christopher J. Schulte, Burton Schulte Weekley Hoeler McLaughlin & Beytin, Tampa

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