

Monday, June 26, 2006

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From the April 14, 2003 Michigan Lawyers Weekly.

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## Jury Finds No Negligence In Med-Mal Matter

### Plaintiff's Bladder Not Damaged During Procedure

The plaintiff suffered from a large ventral incisional hernia, which was surgically repaired by the defendant, a general surgeon. The surgery involved the use of a Gortex mesh material, which was sutured into the abdominal wall.

Following the surgery, the plaintiff began to complain of pain and burning with urination. A cystoscopy was performed, which showed that a suture and mesh material were present in the dome of the bladder. The plaintiff underwent a second surgery approximately seven months following the first surgery to remove the suture and mesh material from the dome of the bladder and to resect a small portion of the bladder that had been damaged.

Before and during the initial surgery, the plaintiff received approximately 2200 ccs of intravenous fluids. The plaintiff was not catheterized during surgery. The plaintiff's expert testified that the plaintiff would have produced approximately 500 ccs of urine which, due to the fact she was not catheterized, distended her bladder and led to the suture inadvertently being placed into the bladder. The plaintiff's expert further testified that the standard of care required the use of a Foley catheter for this surgery.

The defendants' standard of care expert testified that a Foley catheter was not required by the standard of care, and that the plaintiff's expert overestimated the amount of urine which would have been present in the bladder during surgery.

In addition, the subsequent treating urologist testified that, based primarily upon when the plaintiff's symptoms began, the suture and mesh more likely than not simply eroded into the bladder several months after the original surgery as opposed to actually being sutured into the bladder during the surgery.

The case mediated for \$115,000. Both parties rejected and the defendants have now filed a motion for an order to tax costs and attorney fees. The plaintiff's have appealed the verdict.

**Type of action:** Medical malpractice

**Type of injuries:** Bladder injury requiring surgical repair

**Name of case:** Beck v. McLaren, et al.

**Court/case no./date:** Kalamazoo County Circuit Court, #01-000372-NH, Feb. 21, 2003

**Name of judge:** William Schma

**Verdict amount:** \$0 (jury found no medical malpractice)

**Attorney for the plaintiff:** Withheld

**Attorney for the defendant:** Robert B. Aardema

**Name/city of most helpful experts:** David Scheeres, M.D., general surgery; Mark Dykstra, M.D., urology

**Insurance carrier(s):** ProAssurance

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