

MICHIGAN LAWYERS WEEKLY

www.milawyersweekly.com

Friday, September 2, 2005

Lawyers Weekly, Inc.

[Try 3 Free](#) | [Subscriber Services](#) | [Our Newspapers](#) | [Other Products](#) | [Advertise](#) | [Help](#)

From the March 07, 2005 Michigan Lawyers Weekly.

[Order a REPRINT
of this Story](#)

Verdicts & Settlements

ADVERTISEMENT



Get client newsletters tailored to your practice areas!

[Click here for more information.](#)

77-Year-Old Plaintiff Gets No-Cause For Med-Mal

Total Occlusion Of Iliac Artery Led To Chronic Pain, Disability

The plaintiff, a 77-year-old woman, had a sudden onset of severe pain in her right leg and was brought to the emergency department in the late evening. The ER physician charted a sudden onset, three hours prior, of pain in the plaintiff's right buttock radiating down the back of the leg, to the top of the foot. The plaintiff also had slight foot drop.

The ER doctor contacted the neurosurgeon from the defendant professional corporation who recommended an MRI, which confirmed L5 over S1 spondylolisthesis with narrowed foramen. As such, the MRI was consistent with L5 radiculopathy. The neurosurgeon agreed to accept the patient for admission and probable spine surgery.

Nurses in the ER and floor nurses after admission noted the plaintiff's right leg was cool and pulses were diminished, but this was never transmitted to the neurosurgeon. His PA, however, was advised by one of the nurses that the plaintiff's leg was cool at approximately 5:45 p.m. on Sept. 3. She did not advise the neurosurgeon.

The neurosurgeon saw the plaintiff that day. With her right leg covered with TED hose and with no complaints from her, the neurosurgeon remained unaware of the condition of the plaintiff's leg.

Preparations for surgery began, but an operating room was not available until Sept. 6. On that morning, the TED hose were removed and the plaintiff's leg was found to be purple and pulseless. A vascular surgeon was immediately consulted, and he performed a femoro-femoral bypass graft that restored blood flow to the right lower leg. He also performed fasciotomies on either side of the right shin, followed by grafting.

The plaintiff was left with chronic pain, a significantly disfigured right lower extremity, and permanent foot drop that disabled her from walking without a cane, walker, or wheelchair.

The defense admitted negligence in failing to call in a vascular surgeon sooner. At trial, the neurosurgeon testified his PA should have called him to advise him that the nurse indicated the plaintiff's leg was cool. Had she done so, he would have called in a vascular surgeon. With a stipulated admission of negligence, the defense focused on proximate cause.

The plaintiff's argument was that the plaintiff suffered a total occlusion of the right common iliac artery three hours before her presentation to the emergency room. Given the defendant's admission of negligence, the plaintiff did not call her neurosurgery experts at trial. The plaintiff's vascular surgery expert testified the patient still had viable a leg and pulses (albeit diminished) solely as a result of collaterals that must have developed over time. He felt there was a window of opportunity within which to restore blood flow to the lower leg. Further, if the bypass surgery had been performed by the early morning hours of Sept. 3, the patient would have avoided the disfiguring fasciotomies and the foot drop that caused her disability.

The defense vascular surgery expert testified that the plaintiff did not have total occlusion of the right common iliac artery upon arrival or the leg would have been non-viable within hours. Further, the fact that pulses were present confirms the artery was still open until the pulses disappeared on Sept. 6. He opined that the plaintiff developed a total occlusion during the hospital stay as a result of her immobility and, eventually a clot formed at the narrowest point in the right common iliac artery leading to total occlusion.

Defense counsel said the plaintiff's expert acknowledged various vascular surgery texts were authoritative. He was cross-examined with those texts, which tended to support the defense theory on the issue of how long a leg can remain viable after a total occlusion of the iliac artery.

Moreover, defense counsel said detailed preparation of the defense expert for trial resulted in an up-tempo direct examination which the jury liked. The defense expert also drew the anatomy on a whiteboard that seemed to help the jury understand the pathology.

Finally, the defense repeatedly made the point that the plaintiff did not demonstrate the "5 Ps" that the literature indicated would typically occur in a patient with ischemia: (1) pain; (2) paralysis; (3) paresthesia; (4) pallor; and (5) pulselessness. The patient had pain and paresthesia, but the records did not confirm the other three.

Type of action: Medical malpractice

Type of injuries: Alleged delay of diagnosis of total occlusion of right common iliac artery; need for fasciotomies of the right leg; scarring; disfigurement; chronic pain; permanent foot drop; disability

Name of case: Keck v. Neurosurgery of Kalamazoo, P.C.

Court/case no./date: Kalamazoo County Circuit Court; #C03-0198-NH; Feb. 22, 2005

Name of judge: Philip D. Schaefer

Verdict amount: \$0 (no cause for action)

Attorney for the plaintiff: Withheld

Attorneys for the defendant: Brian W. Whitelaw and John R. La Parl

Name/city of most helpful experts: Krishna Jain, M.D., vascular surgeon, Kalamazoo

Insurance carrier(s): ProAssurance Corporation

© 2005 Lawyers Weekly Inc., All Rights Reserved.

Order a **REPRINT**
of this Story

[User Agreement For Subscriber-Only Online Benefits](#) | [Help](#) | [Our Privacy Policy](#)
Send any questions or comments to comments@lawyersweekly.com

Customer Service: 1-800-451-9998 **Technical Support:** 1-800-444-5297 ext. 8156

© Copyright 2005 Lawyers Weekly, Inc. All Rights Reserved



Lawyers Weekly does not use spyware; however, we link to a number of other sites and do not take responsibility for any spyware they may use.

This site is best viewed with Internet Explorer 6 ([click here to download](#)) or Netscape 7 ([click here to download](#))

216.109.193.19/5.93