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JURY AWARDS \$1.623 MILLION IN MED MAL CASE

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A Camden County jury last week handed down a \$1.623 million verdict in a medical malpractice case alleging a doctor's negligence increased the risk of harm to a patient by failing to diagnose an abdominal aortic aneurysm early enough, according to the plaintiff's lawyer.

The jury found in favor of Odessa Shields in her suit against Dr. Robert Gerard who treated Shields at West Jersey Hospital. Shields alleged that Gerard did not take the steps needed to detect a leak in Shields' aneurysm before it ruptured and massive blood loss occurred. The delay that resulted, the suit alleged, increased the risk of harm of post-operative complications.

Following a trial that lasted about seven days, the seven-person jury concluded that Gerard deviated from the standard of care, according to Shields' lawyer, Lawrence R. Cohan of Anapol Schwartz Weiss Cohan Feldman & Smalley in Philadelphia. Specifically, the jury found that the delay increased Shields' risk of harm from post-operative complications by 75 percent and that her pre-existing injuries accounted for 25 percent of her complications, Cohan said.

As a result, Shields will receive 75 percent of the \$1.623 million award. The total award breaks down to \$1.5 million for pain and suffering, among other things, and \$123,000 for economic loss. Shields had been a housekeeper at Holiday Inn earning \$6.50 an hour.

Cohan explained that in New Jersey, unlike Pennsylvania, juries may apportion damages in increased-risk-of-harm cases. Shields' award will also be increased by more than \$300,000 of pre-judgment interest, Cohan said.

The defense, according to Cohan, argued that once a rupture occurred, the risk of complications remained the same regardless of when the operation was performed. Gerard was represented by Stanley Stahl of Stahl & DeLaurentis of Mount Laurel. A call left at Stahl's office was not returned.

Shields was admitted to West Jersey Hospital in June 1994 after reporting to the emergency room with complaints of abdominal and back pain. An ultrasound ordered by the emergency room physician revealed that Shields had an abdominal aortic aneurysm and a urinary tract infection, Cohan said.

Gerard diagnosed Shields with a urinary tract infection, Cohan said. She remained in the hospital. By the fourth day in the hospital, she showed signs that her aneurysm was rupturing. A CAT SCAN was ordered which showed the ruptured aneurysm with a large amount of blood loss, Cohan said.

Shields then received emergency surgery, but she experienced extensive complications following the operation due to the massive blood loss, Cohan said. She suffered a loss of her colon leading to a permanent colostomy, and had her left leg amputated below the knee.

Cohan argued that Gerard did not diagnose the impending rupture, so that the surgery could still be performed without the massive blood loss. The plaintiff's theory, said Cohan, was that Shields showed signs early on to indicate the need for further study as to the possibility that the aneurysm was leaking. Among these signs were a drop in her blood pressure and hemoglobin.

Cohan argued that Gerard, a board-certified internist, should have consulted with a surgeon and ordered a CAT SCAN, which would have revealed the leak in the aneurysm. These steps should have been taken, Cohan contended, within the first two days of her admission.

Cohan argued that the complications would have had a much lower rate of occurrence had the operation been done earlier. The plaintiff's expert witness, Dr. Thomas Gouge of New York University, testified that he had studied the literature on all types of ruptured aneurysms, and that there is a spectrum of risk, said Cohan. The earlier it is caught, the better the result, Cohan said.

For instance, Gouge testified, said Cohan, that if the aneurysm were caught on the first day, the potential of complications such as the loss of her colon following surgery would be at about 10 percent, whereas on the fourth day, after a full rupture, the potential would have been at about 80 percent.

After the evidence was presented, the Superior Court jury reached a unanimous verdict after about a day of deliberations, Cohan said.