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# \$625K Northumberland County Med Mal Verdict Largest in 16 Years

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September 26, 2016

In what appears to be the county's largest reported medical malpractice jury verdict in at least 16 years, a Northumberland County jury awarded \$625,000 to a man who was permanently disabled after suffering what is known as a "mini stroke."

After four days of trial and about three hours of deliberations in *Smith v. Wagner*, a 12-member jury returned the verdict Sept. 22 in Judge Charles H. Saylor's courtroom.

According to statistics kept by the Administrative Office of Pennsylvania Courts, there has been only one other medical malpractice plaintiffs verdict by a Northumberland County jury since 2000 and it was for less than \$500,000.

On June 4, 2012, according to the plaintiffs' pretrial memorandum, plaintiff Charles Smith, then 53, went to the emergency room of defendant Geisinger-Shamokin Area Community Hospital in Coal Township, complaining of persistent pain concentrated in the left side of his chest and radiating into his left arm, along with some arm numbness and shortness of breath.

Smith was seen by defendant Dr. Jere Wagner, who documented that Smith was at an increased risk for stroke because of both his family history and his own medical history, which included dyslipidemia, occlusion and stenosis of the carotid artery, GERD, angina pectoris, anxiety, tobacco use and anemia, according to the plaintiffs' memorandum.

"Despite these increased risk factors, the defendants failed to perform a proper workup to determine if Mr. Smith's symptoms could be the result of a stroke or carotid artery blockage," the plaintiffs' memorandum said, noting that lab results indicated an elevated hematocrit level of 48.3. "Despite Mr. Smith's symptoms, risk factors and abnormal hematocrit level, Dr. Wagner discharged him with a diagnosis of 'non-cardiac chest pain.'"

A few days later on June 9, however, Smith began experiencing weakness in his left leg and left arm, along with numbness in the left side of his face and decreased sensation on his left side, according to the plaintiffs' memorandum. Smith went to Geisinger Medical Center in Danville and was admitted with left hemiparesis.

An MRI showed evidence of a stroke and Smith remained in the hospital until June 12, 2012, after which he was discharged with home nurses and prescribed a regimen of physical therapy, according to the plaintiffs' memorandum. However, despite the physical therapy and surgery on his blocked carotid artery, Smith was left with residual deficits from the stroke, particularly in his left arm and hand, and cannot perform daily activities that require the use of two hands.

In 2013, his primary care physician deemed him permanently disabled and unable to return to work, which involved manual labor at International Paper, according to the plaintiffs' [SEP] memorandum.

The plaintiffs argued in their memorandum that Wagner breached the standard of care for emergency medicine by failing to order a complete medical workup to determine whether Smith had suffered a stroke.

Defendants Geisinger-Shamokin and Geisinger Clinic argued in their own pretrial memorandum, however, that Smith reported having no chest pain when he was examined by Wagner. Still, the defendants said, Smith's cardiac risk factors prompted Wagner to perform blood work, cardiac - enzymes, chest film, EKG and to place Smith on a heart monitor.

Wagner did discharge Smith with noncardiac chest pain but also advised Smith to stop smoking and to return to the hospital if he experienced any persistent or worsening symptoms, the defendants argued in their memorandum.

Smith kept smoking, however, and failed to return to Geisinger-Shamokin, despite experiencing headaches during the week after his first visit, according to the Geisinger defendants' [SEP] memorandum.

When he presented to Geisinger Medical Center five days after his discharge from Geisinger-Shamokin, studies showed he had significant stenosis of the left carotid artery. But that could not have been the source of the symptoms on the left side of Smith's body since those are the result of right carotid stenosis, the defense memorandum said.

Smith's right carotid showed only moderate stenosis and, despite an appropriate work-up, the cause of his stroke was not determined, the defense memorandum said.

"Plaintiffs are critical of defendants for allegedly failing to diagnose or predict that Mr. Smith would suffer a neurological stroke five days after [he] presented to the hospital with non-cardiac chest pain," the Geisinger defendants argued, adding, "There was absolutely no indication during the June 4, 2012, emergency department visit at [Geisinger-Shamokin] that Mr. Smith was going to have a neurological stroke five days later. Mr. Smith's stroke could not have been predicted or prevented by Dr. Wagner."

The jury ultimately found Wagner 100 percent liable for Smith's injuries because the Geisinger defendants stipulated that Wagner was an agent of the hospital, according to information provided by the plaintiffs' attorney.

Counsel for the Geisinger defendants, Donald F. Ladd of White and Williams in Philadelphia, could not be reached for comment. Counsel for Wagner, Arthur K. Hoffman of Thomas, Thomas & Hafer in Harrisburg, also could not be reached.

Justin Groen of Messa & Associates in Philadelphia, who represented Smith and his wife, Loretta Smith, said he thought the jury responded strongly to his clients' testimony.

Groen said the jury seemed particularly affected by testimony that Charles Smith had to give up his hobby restoring old cars because of the loss of function in his left arm and hand.

"I think he, more than anyone else in the courtroom, was able to connect with the jury," Groen said.

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