

# Jury Returns \$3 Million Med-Mal Verdict

By April White Of the Legal Staff DECEMBER 8, 1999



Sheila Grolimund was a successful pastry chef and small business owner when she underwent surgery in October 1994 for the removal of a benign pituitary tumor. Today, after five years of procedures to correct that surgeon's error, she has little sense of taste or smell and has been forced to abandon her budding bakery business.

But a Philadelphia Common Pleas Court jury gave Grolimund a 46th birthday present yesterday, returning a \$3 million verdict against the two doctors and the hospital responsible for her care.

"The defendants took shortcuts. That was what the whole case was about -- shortcuts," plaintiff's attorney Andrew Stern of Beasley Casey & Erbstein said following the verdict.

Post & Schell attorney William Sutton, who represented the defendants -- Dr. David Andrews, Dr. Thomas Willcox Jr. and Thomas Jefferson University Hospital -- could not be reached for comment late yesterday.

The medical malpractice case before Judge Richard B. Klein pitted Stern's assertions that Grolimund's care was below the necessary standard against the defense's "two schools of thought" doctrine, an absolute defense which allows the jury to find that the standard of care would be deemed acceptable by a large number of respected doctors.

There were no settlement offers made in the case, Stern said.

Five years ago, Grolimund, then 41 years old, underwent surgery at Thomas Jefferson University Hospital for the removal of a benign pituitary tumor.

Andrews, a neurosurgeon with the hospital, performed the procedure, removing most of the large tumor through a hole in the nasal passage. He used gelfoam to patch the operative site, filling the hole in the cella floor with the spongy substance.

The gelfoam, Stern argued during the seven-day trial, was insufficient to patch the hole which resulted from the removal of the large tumor. Stern's medical experts testified that a "multilayered approach" -- using bone, cartilage or fat with the gelfoam -- was medically necessary.

Following the surgery, Grolimund experienced a leakage of cerebral spinal fluid or CFS, a substance which surrounds and protects the brain.

Grolimund suffered from headaches, fluid drainage from her nose and a salty taste in her mouth -- all symptoms of a CFS leakage -- but her condition remained undiagnosed by Andrews and Willcox, an ear, nose and throat specialist, for more than a year and a half.

If the leak had been diagnosed earlier, a non-surgical draining procedure may have remedied the problem, Stern said. Instead, Grolimund again underwent surgery at Jefferson.

Andrews and Willcox performed the second surgery in July 1996 to repair the hole. However, a fistula, an abnormal passage for the fluid, had formed in the intervening months making the procedure more difficult. The surgery did not remedy the problem, and Grolimund returned to the hospital one week later for an intensive three-week draining process.

The draining was designed to reduce the volume and pressure of the fluid. However, a side effect of the procedure -- intense pain associated with the brain tissue "sagging" against the cranium -- necessitated high doses of morphine and Percoset. The procedure failed, and Grolimund was hospitalized near her home in the Poconos for withdrawal symptoms.

For Grolimund who had, 10 years prior, overcome an addiction to Percoset and alcohol, this hospitalization was especially traumatic, Stern said.

Finally, eight months ago, doctors at Mount Sinai Hospital stopped the leakage, though a large septal perforation remains. The repeated surgeries have also limited Grolimund's ability to taste and smell.

Stern argued that Andrews, the original surgeon, was liable for failing to comply with a standard of care, the delay in diagnosis of the leakage and the improper discharge which necessitated detoxification. Wilcox, he said, was liable for the failure to diagnoses, and the hospital was responsible vicariously.

"I think that the jury recognized that what the defendants were advocating as the standard of care didn't make sense. Why wouldn't a physicians use at least some additional material other than just gelfoam to properly buttress the hole after the tumor was evacuated? I think that just didn't make sense to them," Stern said. The jury deliberated for three hours.

Grolimund's testimony also impacted the jury, Stern said.

"The key was having her tell her story from beginning to end -- how hard she worked and the obstacles she overcame, only to have that all taken away because the defendant took shortcuts."