

\$2 Mil. For Estate of Elderly Woman

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Helping dispel the idea that jury awards are scaled back for older plaintiffs, a 12-member jury has awarded \$2 million to the estate of a 67-year-old end-stage renal disease patient.

According to the complaint, in 1997 Delores Spraggans was suffering from diabetes, hypertension and end-stage kidney failure that required dialysis treatment three times a week. After a temporary Perma-Cath dialysis entry site became unsuitable, Spraggans was admitted in October of that year to the Allegheny University Hospital to have a dialysis catheter inserted into her right jugular vein.



Drs. Thomas B. Gain and Adam Kushner performed the surgical procedure but, according to the complaint, instead placed the catheter into Spraggans' right carotid artery, one of the primary sources of blood flow to the brain. The artery was ligated, resulting in the catheter's tip entering her left carotid artery, another major path to the brain.

According to Tom Kline of Kline & Specter in Philadelphia, who represented the estate, after the catheter was attached to the dialysis tubing, dialysis nurse Sheila Latham notices arterial pulses in Spraggans. Latham called Gain and suggested to him that she thought the catheter was in the arterial system. Gain told Latham that this was "impossible" and instructed her to continue with the dialysis procedure.

For catheter insertion, an X-ray is usually ordered either during or just after the operation to ensure that the device was properly placed. Gain testified that he expected Kushner, who issued the post-operative orders, to issue an X-ray for Spraggans.

"A key document in the case was the note of Dr. Kushner which stated 'OK to use Perma-Cath' but did not order a chest X-ray to determine catheter position. ... Despite [Gain] admitting he made a mistake in the placement of the catheter, there was no admission from either doctor as to making a mistake and failing to order an X-ray," Kline said.

Latham was ultimately reassured by Gain that the catheter was in the proper vein. Spraggans was then dialyzed on Oct 21 and 23 through the improperly placed device and suffered a stroke as a result. Seven months later, she died of complications from the stroke.

The jury delivered its \$2 million verdict last week finding Gain 75 percent liable for Spraggans death. Allegheny hospital was found 15 percent liable for Kushner's and 10 percent liable for Latham's alleged involvement in the events leading to her death.

While Spraggans was severely ill prior to the catheter insertion and stroke, the jury took her pain and suffering into consideration rather than just her physical condition, Kline said.

"This jury award was in line with an award last December. A 72-year-old couple was killed in a car accident, and their estate was awarded \$4.2 million. This verdict was right in line with that. ... Both were advanced-age plaintiffs and had pre-existing medical conditions. This case was another test before a jury on the value of the lives of the individuals and an acknowledgement of their pain and suffering regardless of age," Kline said.

Judge Howland W. Abramson oversaw the trial.

Timothy McCann of McCann & Geschke in Philadelphia represented Allegheny hospital for Kushner and Latham. He did not return a call seeking comment.

Israel Isenberg represented Gain and could not be reached for comment by press time.

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