



Gov't Inks \$2.75M Settlement In Pa. VA Malpractice Case

By Matt Fair

May 20, 2021

Law360 (May 20, 2021, 5:30 PM EDT) -- The federal government has agreed to pay \$2.75 million to resolve claims that a man was forced to have his leg partially amputated after a botched foot-and-ankle surgery at a hospital run by the U.S. Department of Veterans Affairs in Pittsburgh.

Attorneys for Darwin Gurto said Thursday that the government agreed to pay cash to resolve his Federal Tort Claims Act lawsuit alleging malpractice on the part of a VA podiatrist who conducted the operation as part of a plan to relieve foot and ankle pain Gurto said he'd been suffering from.

"This was an excellent result for our client, especially since the funds were paid entirely in cash without a reversionary trust which the federal government often insists on when settling FTCA cases," said Regan Safier, an attorney with Kline & Specter PC representing Gurto.

Gurto filed suit under the FTCA in January 2018 alleging that a surgery he underwent to fuse certain bones together in his left foot and ankle resulted in a deformity that kept him from being able to put his foot flat on the ground.

The result, he said, was significant pain and chronic mobility issues that ultimately required an amputation of his left leg below the knee.

According to Gurto's complaint, he first went to the VA hospital in February 2014 to see a doctor about pain in his feet.

After undergoing a successful surgery in April 2014 to correct a deformity in one of his right toes, the complaint said Gurto went back to the hospital the following February for a second surgery to fuse bones in his left foot and ankle to try to address continued pain he was having.

But weeks after the surgery, the complaint said, Gurto continued to have pain in his left leg through the calf and into the knee, and he was unable to put weight on his left foot without his knee hyperextending.

Gurto said he underwent a second surgery in March 2016, but that the procedure failed to correct the problem. Additionally, the complaint said he ended up with a postoperative urinary tract infection and, ultimately, a staph infection.

He underwent a third surgery in February 2017 to remove a bone stimulator he'd been implanted with the year before.

Throughout it all, however, he said his pain and mobility issues continued until he ultimately underwent an amputation below the knee in April 2019.

A trial in Gurto's case had been scheduled to start in November 2020, but the case was earmarked for a special settlement conference under COVID-19 protocols given the large number of witnesses slated to be called.

A representative for the VA did not immediately return a message seeking comment Thursday afternoon.

Gurto is represented by Thomas Kline, Dominic Guerrini and Regan Sari Safier of Kline & Specter PC.

The government is represented by Michael Colville and Rachel Dizard of the U.S. Attorney's Office for the Western District of Pennsylvania.

The case is Darwin Gurto v. United States of America, case number 2:18-cv-00053, before the U.S. District Court for the Western District of Pennsylvania.

--Editing by Kelly Duncan.