



Ohio man gets \$2.75 million after botched foot surgery leads to leg amputation

Paula Reed WardPAULA REED WARD | Friday, May 21, 2021 5:54 p.m.Support Local Journalism

The federal government will pay an Ohio man \$2.75 million for a botched surgery at the VA Pittsburgh Healthcare System that led to the amputation of his leg.

Darwin Gurto, 58, of Pierpont, Ohio, initially was seen at the VA's Podiatry Clinic in February 2015 for pain in his left ankle, which was causing instability and difficulty walking, according to the federal lawsuit he filed.

About 10 days later, he underwent a left ankle and mid-foot fusion by Dr. Rick Scanlan, a podiatrist.

On March 5, 2015, he saw Dr. Scanlan again and reported "considerable pain," the lawsuit said.

He was prescribed a large, pneumatic walking boot.

Over the next several months, Gurto returned to Dr. Scanlan repeatedly, complaining of pain in his lower left leg, swelling, and sharp, shooting pain.

He went to physical therapy 11 times in June 2015 and still had decreased range of motion and poor flexibility in his ankle and Achilles tendon, the lawsuit said.

In September of that year, Gurto saw a different doctor in the VA's Foot and Ankle Clinic, who told him his ankle was improperly fused, resulting in his having to hyperextend his knee to be able to get his foot flat on the ground.

In February 2016, the clinic doctor noted that Gurto was complaining of a pain rate of 9 out of 10 with extreme difficulty walking on both even or uneven ground.

Gurto had an additional left ankle fusion on March 9 but continued to complain of pain.

After several months of taking oxycodone, Gurto sought treatment at the Cleveland VA hospital, and was having trouble finding pain management he could tolerate.

Following an infection and excision of the wound and removal of a bone stimulator in February 2017, Gurto underwent a below-the-knee amputation of his left leg on April 23, 2019.

“He has been unable to walk unassisted since the date of his surgery with Dr. Scanlan,” according to a document filed in the case.

Since the amputation, Gurto has had significant pain, including phantom limb pain.

Assuming a life expectancy of 81, the lifetime costs for Gurto, including prosthetics and home modifications, according to a filing in the case, are nearly \$1 million.

His attorney, Regan Safier, said that Gurto led an active life prior to the amputation, spending time with his wife, children and grandchildren, traveling and walking their dogs.

“He suffered a significant injury that was caused by the podiatrist’s error,” she said.

Safier especially praised that the settlement for Gurto will not be paid through a reversionary trust. Typically, she said, the federal government pays settlements through such a trust, which means if the plaintiff dies, none of the money goes to his next of kin. Instead, it would revert back to the federal government.

“It’s very much the government’s MO,” she said. “His family would not get any of that money.”

In Gurto’s case, though the government agreed to an all-cash settlement, Safier said.

“We were thrilled to be able to get a just result for our client.”

A spokeswoman with the VA Pittsburgh did not immediately comment.