



David Inscho, left, and Helen Lawless, right, of Kline & Specter. Courtesy photos

### NEWS

## Phila. Jury Hits Work Injury Consultant With \$4.5M Verdict Over Drill Operator's Foot Amputation



The plaintiff told jurors that the defendant purported to provide medical care, but was actively dissuading injured workers from seeking additional care that could increase costs for his employer.

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Litigation



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## What You Need to Know

- A Philadelphia jury handed up a \$4.5 million verdict Tuesday in the case of a man who claimed he lost part of his foot because he relied on bad advice from a medical helpline for injured workers.
- The plaintiff contended that, unknown to him at the time, the company that ran the helpline was actually a consultant his employer had hired to reduce its workers' compensation costs.
- However, the jury found that the plaintiff shared 39% responsibility for his amputation, leading the judge to tentatively mold the award to about \$2.77 million.

A Philadelphia jury returned a \$4.5 million verdict Tuesday in the case of a man who claimed he lost part of his foot because he relied on bad advice from a medical helpline for injured workers.

The plaintiff, represented by Kline & Specter's David Inscho and Helen Lawless, alleged that the helpline's staff deterred him from seeking



appropriate care for a diabetic ulcer on his foot, which ended up worsening to the point that he required an amputation.

Plaintiff Gerald Tritt contended that, unknown to him at the time, the company that ran the helpline was actually a consultant his employer had hired to reduce its workers' compensation costs.

“This service existed to exploit the lack of knowledge that workers had,” Inscho claimed.

Tritt, a heavy machine operator, had contacted defendant WorkCompvidence on his supervisor’s instruction after noticing he had developed a blister on his foot while working on a jobsite in Florida, according to pretrial documents.

Tritt claimed that he discussed his injury and medical history with a WorkCompvidence nurse and, over the course of the next several months, communicated remotely with the company’s medical providers to provide updates on his condition. Tritt asserted that the WorkCompvidence staff directed him to manage his symptoms himself and never advised him to stop working or seek an in-person medical evaluation.

Tritt contended that WorkCompvidence purported to give medical care and never informed him of the company's true purpose, which he alleged was to dissuade him from seeking additional care that could drive up costs for his employer. As a result, he claimed, he developed an infection and had to undergo an amputation of part of his foot.

WorkCompvidence and its owner and operator, Dr. Louis Wai-Kai Lam, contended that the helpline’s employees regularly asked Tritt if he would like to see a medical provider, but Tritt declined. The defendants, represented by Marshall Dennehey shareholder Gary Samms, asserted that they did not owe a duty of care to Tritt because he was not a patient.

“Defendants never physically treated or examined the patient and the parties were located in different states at the time of contact,” the



defendants claimed in their pretrial memo. “The role of Defendants was to arrange for employees to obtain medical services if requested. Plaintiff, Mr. Tritt, denied this assistance at all times.” Samms was not immediately available to comment.

Inscho said the plaintiffs team “had to present our evidence through aggressive cross-examination of the defendant and his expert.”

According to Inscho, plaintiffs counsel showed the jury brochures and employee training materials from WorkCompvidence demonstrating that the company sought to dissuade injured workers from seeking outside medical care.

“The biggest challenge in the case,” Inscho said, “was explaining to the jury what this defendant’s service really was and being able to give them the evidence that it was motivated by saving employers money and not by the injured workers best interest.”

After a seven-day trial in front of Judge Carmella Jacquinto of the Philadelphia Court of Common Pleas, the jury awarded Tritt \$1.78 million in lost earnings, \$1.7 million in noneconomic damages, and about \$960,000 in future medical expenses, plus \$100,000 to Tritt’s wife for loss of consortium.

However, while the jury found WorkCompvidence and Lam to be 37% and 24% liable, respectively, it also determined that Tritt shared 39% responsibility for his amputation, leading Jacquinto to tentatively mold the award to about \$2.77 million.

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