

City couple win negligence suit

■ Case against podiatrist ends in \$3.5 million award; settlement reached earlier.

By DEBBIE GARLICKI
Of The Morning Call

A Lehigh County jury recently awarded an Allentown woman and her husband \$3.5 million in a lawsuit that claimed medical negligence left the woman with a disabling condition.

Jurors found that a podiatrist was negligent in his care of Joyce E. Bachman but that an orthopedic surgeon was not.

On Aug. 3, the jury decided that Dr. Douglas Tozzoli of Allentown should pay damages of \$3 million to Joyce Bachman and \$500,000 to her husband, Dale.

However, the couple will not get that amount because they reached a confidential out-of-court settlement with Tozzoli before the jury started deliberating.

The case proceeded to the jury because no agreement had been made with the other defendant, Dr. Steven J. Lawrence, an orthopedic surgeon who has left the area.

Jurors found no negligence by Lawrence.

The settlement with Tozzoli happened after an unusual occurrence in the trial.

A female juror bent over in her chair and appeared to be having medical problems. Lawrence ran to the jury box to assist her. Another juror tried to help.

Ambulance personnel took the woman to a local hospital.

Lawyers for the Bachmans and Tozzoli asked for a mistrial. They said they saw two jurors patting Lawrence on the back as jurors walked out of the courtroom.

Allentown lawyer Todd Miller, who represented the Bachmans, and John F.X. Monaghan Jr., Tozzoli's attorney, argued that it would be hard for jurors to render a fair verdict in the case or to find Lawrence negligent after he had gone to the assistance of a juror.

The lawyers also contended that jurors might be prejudiced against their cases or become angry at allegations that Lawrence provided inadequate care to Joyce Bachman.

LEHIGH COUNTY

denied the requests for a mistrial, and the case proceeded. The settlement with Tozzoli later was reached before the case went to the jury.

Joyce Bachman, 44, came under Tozzoli's care in 1991 after she stubbed her left big toe when she stepped off a stool at work in the Lehigh County Courthouse. She was treated by Lawrence in 1995.

Lawsuits alleged that failure to diagnose reflex sympathetic dystrophy and improper surgery caused the spread of the disabling condition and left the mother of two grown children unable to walk without crutches and move without a wheelchair or motorized scooter.

Reflex sympathetic dystrophy causes severe pain, swelling and stiffness of ligaments and joints and can result in muscle atrophy of affected limbs.

The Bachmans said they were happy with the resolution of the case, which started in 1995 with the suit against Tozzoli. That suit was consolidated with a later one against Lawrence.

Progress in both suits was delayed in 1998 when PIC Insurance Group Inc. of Montgomery County, Lawrence's insurance carrier, became insolvent. Pennsylvania's appellate courts temporarily stopped all activity on suits involving doctors insured by PIC and another medical malpractice insurance company that collapsed.

"I was relieved it's finally over, and we can put it behind us," Joyce Bachman said Thursday.

Dale Bachman, who is retired from Bethlehem Steel Corp. and has been taking care of his wife, said they can move on now and perhaps replace their two-story row home with a ranch that won't require him to carry his wife up steps.

"It's always been out there," he said of the civil case. "It's something we knew we had to deal with. It just never seemed to come about. There was always some delay or postponement."

Joyce Bachman has a pain management doctor and takes numerous medications. She probably will live the rest of her life with an implanted pump that delivers a strong painkiller to her spine, her husband said.

Widow settles suit with Easton doctor

■ Agreement details are kept secret; she had sought \$2 million.

By JEFF GELMAN
Of The Morning Call

The widow of a Bethlehem man has settled out of court with an Easton radiologist and his employer, all of whom she said failed to identify her husband's cancer in time to prevent his death at age 42.

Audrienne M. Jacoby filed suit in Northampton County Court in April 1997 against the hospital and Dr. Kenneth Kramer after her husband, Daniel F. Jacoby, died Nov. 26, 1996.

Also named in the lawsuit was Kramer's employer, Eastern Radiology Associates, which provides radiology services for the hospital.

Terms of the settlement were not disclosed.

Easton Hospital, which was also a defendant in the lawsuit, was not involved in the settlement and did not pay money to Audrienne Jacoby, said Howard S. Stevens, one of the attorneys who represented the hospital.

"There was no evidence that Easton Hospital did anything wrong," he said. "We were happy that the Easton Hospital was

wrong, they wouldn't have let us out of the suit for no money. . . . They would have made us pay."

Audrienne Jacoby's lawyer, Todd Miller of Allentown, said he couldn't disclose how much money was paid because of the terms of the settlement. Jacoby had sought \$2 million, according to court records.

"Our clients were satisfied," Miller said.

Kramer's lawyer did not return phone calls seeking comment. Kramer continues to work at the hospital, a hospital spokeswoman said.

The suit said Kramer interpreted as normal Daniel Jacoby's CAT scan, which was performed in 1985 at Easton Hospital.

The chart for the 32-year-old man showed a small lesion that should have warranted further tests, the suit said. A radiology technician marked the lesion on the chart, which Kramer didn't see, the suit stated.

Jacoby's cancer wasn't diagnosed until 1995, by which time the lesion had grown to 7 centimeters in diameter. The man died at age 42 after his left kidney was removed.

The lawsuit said Jacoby could have been cured if the lesion had been treated in 1985.

The jury trial began April 26

Tobyhanna woman is awarded \$1.75 million for doctors' negligence

■ Northampton jury finds physicians failed to promptly diagnose and treat her condition, leaving her incontinent.

By LAURI RICE-MAUE
Of The Morning Call

A Northampton County jury on Friday awarded \$1.75 million to a Tobyhanna Township woman who became permanently incontinent after doctors failed to properly and promptly diagnose and treat her condition.

The jury sat through two weeks of testimony and deliberated for about four hours before finding Dr. Ghodrat Daneshdoost of Bethlehem 85 percent responsible for 43-year-old Khadijah Ali's injuries.

Dr. Gabriel Martyak, who saw Ali in the emergency room at Muhlenberg Hospital Center, was found 10 percent responsible, and the jury found Dr. James Kim of East Stroudsburg 5 percent responsible.

Muhlenberg was dismissed from the case by Senior Judge Isaac Garb before the case went to the jury.

"After living with this situation and the ongoing litigation for six years, they were relieved that it came to a favorable resolution, that their story was told and that all doctors were held negligent in one manner or another," said Ali's attorney, Todd Miller of Allentown, speaking on behalf of

Ali and her husband. They were also represented by Neil Conroy.

Daneshdoost's lawyer, Louis Rieffel, refused to comment on the verdict, and attorneys for Martyak and Kim could not be reached.

Miller said Ali, a former Easton resident, suffered a herniated disc in her lower back in a taxi accident in September 1991.

From 1992 to 1994, she received physical therapy treatments from Kim. She saw improvement, but she also had occasional problems.

In June 1994, Miller said, she developed numbness in her lower body and other problems, including incontinence, caused by the disc pushing on nerves.

On June 13, 1994, Kim set up an appointment for her with Daneshdoost, which was scheduled for two weeks later. Immediately after attending her father's funeral on June 17, 1994, she went to Muhlenberg, where Martyak recorded her symptoms and told her to see Daneshdoost, Miller said.

When Ali went to Daneshdoost on June 20, 1994, "He looks at her, finds out she has no insurance and gave her a list of hospitals in Philadelphia," Miller said. "He never told her it was a neurosurgical emergency."

Ali made an appointment at Hospital of the University of Pennsylvania in Philadelphia for June 29, 1994. After doctors there saw her, they operated on her the same day, but it was too late and the nerve damage was permanent, Miller said.

Jury orders doc's estate to pay \$1.5M

■ The award is for a hysterectomy Dr. R. Dean Nenni botched in 1993. He killed himself in 1996.

By LAURI RICE-MAUE
Of The Morning Call

A Northampton County jury Monday awarded \$1.5 million to a Phillipsburg woman after finding her former Palmer Township obstetrician/gynecologist negligent, posthumously, for botching a 1993 hysterectomy.

After a five-day trial before Northampton County Judge William F. Moran, the jury spent nearly 4½ hours deliberating before finding in favor of Patricia Linseman and her husband, Milton.

The doctor who performed the hysterectomy, R. Dean Nenni, was 35 when he committed suicide Feb. 3, 1996.

Two days later, the Linseman's filed the lawsuit through their attorney, Todd Miller of Allentown.

Miller argued that Linseman agreed with Nenni's recommendation that she undergo a total hysterectomy, including the removal of both ovaries, to treat problems stemming from Linseman's endometriosis. She signed a consent form for the surgery, but it was not explained to her that the form she signed did not include the removal of the ovaries, Miller said.

Experts testified that the endometriosis was fueled by the hormones produced by the ovaries and that the only definitive treatment for the condition was their removal.

For two years, Linseman was under the impression that her ovaries had been removed. She was even taking Premarin, a hormone replacement drug that was prescribed by Nenni.

But as her problems, which included rapid heartbeat and bleeding, continued to worsen, she underwent an ultrasound examination and was surprised to learn that the ovaries were still in her body.

"Our argument was, when a patient refuses a [procedure], it's going to be [recorded] all over the place so the doctor can protect himself," said Miller.

"I think a real element in the award is to punish the fact they didn't accept responsibility and tried to cover it up. And they covered up all the way through the trial, in fact. The jurors made it clear they would not tolerate the doctor's cover-up."

Todd Miller,
attorney for the Linseman's

"The only place Nenni recorded that Linseman wanted to keep her ovaries was in his operative report, which he dictated nine months after the surgery."

It's a widely held hospital policy, said Miller, that such reports be submitted immediately after surgery or within 24 hours at the latest.

"I think a real element in the award is to punish the fact they didn't accept responsibility and tried to cover it up," said Miller. "And they covered up all the way through the trial, in fact. The jurors made it clear they would not tolerate the doctor's cover-up."

The surgery was performed Sept. 13, 1993, at Easton Hospital. The hospital was not a party to the suit.

Miller said Linseman was initially concerned about the effect the lost hormones would have on a pre-existing heart condition, but she agreed to the removal of her ovaries after viewing a videotape on the subject that Nenni provided.

Allentown lawyer Maureen Jordan, who represented Nenni's estate, could not be reached for comment.

According to a pretrial brief, Nenni's notes indicated that Linseman elected to keep her ovaries and that she signed the consent form, which did not mention the removal of the ovaries.

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Flu vaccines offered
to some city youths

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Sale places Ironworks
project in doubt

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Settlement reached in drowning

Family of woman who died in pool at Whitehall apartment in 2003 signs \$900,000 agreement with owners of complex, ending suit.

By Matt Birkbeck
Of The Morning Call

The family of a 19-year-old woman who drowned in a swimming pool at a Whitehall Township apartment complex in 2003 has agreed to a \$900,000 settlement to end a

federal lawsuit against the owners of the complex. Lorreen Tambo was found at the bottom of a pool at the Independence Square Apartments on Maryland Circle on July 28, 2003. Her father, Vitalis Ogutu, of Whitehall, filed suit in October 2003, claiming

his daughter died because two lifeguards on duty were not paying attention to the swimmers in the pool. One lifeguard was allegedly sitting in a lawn chair 10 feet from the pool while another was performing repairs to a car. The case was destined for

trial this month in Reading, but the trial was averted after the parties agreed to a settlement Oct. 25. The suit, filed against Lehigh Valley Apartments and Samuel Geltman and Co., a

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B E T H L E H E M A R E A E D I T I O N

The Express-Times
Local & State

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Friday, July 6, 2001

Jury awards locksmith \$828,000

Lower Milford man fell through hole.

By RUDY MILLER
The Express-Times

EASTON — A Northampton County jury has awarded more than \$828,000 to a locksmith from Lehigh County who claimed he was the victim of negligence after he stepped through a hole on a construction site and broke his hip.

Keith Burke of Lower Milford Township was 36 years old when he stepped through the hole on Sept. 6, 1996, causing injuries that required him to have his hip replaced, according to his lawyer, Todd Miller. At that time, Burke was installing doors at the addition to the Bethlehem doctor's office of Camille Eyyazzadeh, Miller said.

Miller argued that Miland Corp.

of Bethlehem, the general contractor for the job, was negligent for not marking the hole or covering it safely. The hole was cut to make access to a crawl space near a door Burke was working on, according to court records.

In addition to suing Miland Corp., Burke sued Hannaberry HVAC, the last contractor to use the hole. The Allentown company was based in Quakertown at the time of the accident. Burke also sued Lechner Framing of Bethlehem, the company that cut the 16-by-20-inch hole.

According to Miller, the jury found that Burke and all three contractors were negligent. However, only Miland Corp. was ordered to pay damages. The verdict came

June 25 after three hours of deliberation, Miller said.

"We're pleased," Miller said. "It obviously was a verdict that showed the jury really considered the facts carefully."

John Ashley, the attorney for Miland Corp., said he plans to appeal the verdict.

"Obviously we weren't happy," Ashley said.

Ashley said Burke should have watched his step.

"The hole was there. It was obvious," Ashley said.

11/25/89

LOCAL

L.V. woman's family wins malpractice suit

By DEBBIE GARLICKI
Of The Morning Call

The family of a former Allentown woman recently won a \$534,000 verdict in a medical malpractice suit against a surgeon and an Iowa hospital where she had worked as a nurse.

The husband and three children of Lois Artwein of Des Moines will receive a total of \$622,000 in damages with interest.

The family was represented by Allentown attorneys Boyd Walker and Todd Miller in the two-week trial in Polk County District Court. They were hired by Artwein's sister, Barbara Mantz, who lives in Allentown, along with Artwein's parents, Charles and Helen Seaman.

Artwein, 35, died April 21, 1986, in Mercy Medical Center, Des Moines' largest hospital, after she was admitted for a hernia operation.

The suit alleged her condition deteriorated after surgery, and she had a cardiopulmonary collapse. Artwein died several days later of blood clots, which were misdiagnosed by her doctor as lung congestion, according to the complaint filed by Artwein's husband, Stephen.

The family alleged that on the day Artwein died, she was being cared for by an unsupervised high school student.

Nurses failed to record her vital signs for nine hours and didn't summon a doctor even though Artwein showed signs of increased breathing and pulse, the suit said.

Artwein had been a registered nurse at the hospital for about five years.

Until about a year ago, the law firm of Walker, Miller & Cavacini, which represented the Artweins, primarily had defended physicians in malpractice cases for the last 25 years.

Although the firm still does some defense work, it primarily will represent patients in suits, according to Walker.

The reason for the switch, Walker said, was "a fee dispute with an out-of-state medical malpractice [insurance] carrier and a personality dispute with its general agent."

The carrier is Medical Protective Co., of Fort Wayne, Ind., one of the largest malpractice insurance carriers in the state. It offers coverage to a majority of doctors in the Lehigh Valley and surrounding area.

SETTLEMENT

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Suit claimed pool shouldn't have been open

New Jersey firm that owns the building, also claimed that the pool should never have been open to swimmers since the water was cloudy and not properly chlorinated.

The settlement will be paid by the defendants' insurance carrier.

Neither attorney Todd Miller of Allentown, who represented Tambo's family, nor attorney John Devlin of Philadelphia, who represented the defendants, could be reached for comment.

The suit claimed that Tam-

bo, who could not swim, was visiting a friend that day and entered the shallow end of the pool, which was 4 feet deep. But minutes later, a boy swimming on the other end of the pool in 9 feet of water bumped into Tambo, and several people pulled her out of the water.

Tambo had a weak pulse, and CPR was applied. She was taken to Sacred Heart Hospital in Allentown, where she died an hour later.

According to a pretrial memorandum submitted to the court, Devlin argued that the pool had a rope line that separated the shallow end from the deep end and also had markers to indicate the various depths.

In addition, Devlin argued that Tambo was not a resident of the apartment complex and did not obtain a valid guest pass to enter the pool.

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parents' attorneys to review the case said Oppenheimer should have transferred the baby promptly.

The inadequate treatment by the hospital personnel and the doctor "greatly contributed" to the child's disabilities, said Dr. Floyd T. Nasuti of Philadelphia.

Dr. Thomas E. Cadman, a pediatric neurologist, and Dr. Galen N. Brenningstall of the Temple University School of Medicine, concurred and said the child's problems resulted from insufficient staffing and monitoring in the newborn nursery and substandard care by Oppenheimer after a nurse found that the baby wasn't breathing.

Harold V. Kulman, a vocational expert, filed a report detailing what the child would have earned in her life had she not been disabled, earnings lost by the mother in caring for the child, and costs of nursing, therapy, medication and physical therapy equipment.

Dr. Robert C. Vannucci of the Milton S. Hershey Medical Center, who agreed to testify for Oppenheimer, said in a report that he found no evidence of negligence and concluded that the baby's breathing problems in Allentown Hospital didn't cause the brain damage.

Parents accept settlement in hospital suit

Lehigh couple to get millions over 30 years for daughter

By DEBBIE GARLICKI
Of The Morning Call

The parents of a physically and mentally handicapped child have accepted a multimillion-dollar settlement to end their suit against Allentown Hospital and the doctor who treated their child after birth.

The settlement between Gregory F. and Claire M. Pierog, their daughter, Candice, and the defendants was approved recently by Lehigh County Judge Robert K. Young.

The Pierogs, Emmaus R.2, filed suit in 1985 against the hospital and Dr. Philip J. Oppenheimer, who no longer works at the hospital.

The parents claimed their daughter, who is almost 9 years old, suffered permanent brain damage when she stopped breathing a day after she was born in February 1980.

They alleged that nurses didn't properly monitor the infant and that Oppenheimer didn't adequately treat the baby after a nurse found Candice face down in her crib in the nursery.

The child has cerebral palsy and can't walk. She can only crawl with her legs spread out behind her. The girl is not toilet trained and can speak only about 50 words, among them mom, doctor, more, eat and yellow, said an expert who observed the child.

An initial payment of \$700,000 is to be made to the parents, with \$506,789 earmarked for legal fees and \$11,594 for legal costs incurred by the Allentown law firm of Walker, Miller, Cavacini & Wenner, which represented the Pierogs.

The insurance carrier, the Medical Professional Liability Catastrophe Loss Fund, has agreed to pay monthly installments that amount to \$60,000 a year plus interest for 30 years.

The petition filed in court to end the suit said that the parents, who have two other children, ages 4 and 6, have "devoted their entire time

and financial abilities in caring for and paying for treatment and services required of their daughter."

The attorneys for the hospital and the doctor attempted to have the suit thrown out because the statute of limitations had expired. The parents had two years from the date of the incident in the hospital to file the suit but did nothing until 1985, the attorneys contended.

The Pierogs claimed that the two-year time limit didn't apply because they didn't know until 1985 that the brain damage was caused by negligence and carelessness of the doctor and hospital personnel.

The parents claim their daughter, who is almost 9 years old, suffered permanent brain damage when she stopped breathing after she was born in February 1980.

They said they were told that the child's injuries were congenital.

The issue of the timing of the suit was never resolved because the case was settled.

The suit alleged that the nursing staff didn't properly monitor the baby and hadn't checked on the infant for about two hours before she was found lying on her stomach in the crib. The defendants' attorneys contended it wasn't unreasonable to wait one to two hours before checking on a healthy 1-day-old baby.

The baby started having seizures and was transferred after several days to Children's Hospital of Philadelphia, where she stayed for 3½ months.

Experts who were hired by the
Please See SETTLED Page B5 ►

Parents, doctor settle lawsuit in boy's blindness

By DEBBIE GARLICKI
Of The Morning Call

Parents of an 8½-year-old boy and the doctor they claim is responsible for his blindness this week settled a malpractice suit after their trial started in Lehigh County Court.

William and Barbara Weaver of 202 N. Irving St., Allentown, settled their suit against Dr. Harvey S. Cheng for an undisclosed amount, according to their lawyer, Todd Miller of Allentown.

The settlement was reached Monday afternoon after jurors heard Miller's opening statement in the trial before Judge Thomas A. Wallitsch.

Miller and Cheng's lawyer, Neil L. Conway, met in the judge's chambers, and the jury was dismissed.

The Weavers alleged Cheng's negligence left their son, Wesley, blind in the left eye and with light perception in his right eye.

The couple said they took their son to Cheng in 1987 because Wesley's left eye turned in toward his nose and made him look cross-eyed.

Cheng performed a retinal examination and later performed surgery and prescribed glasses for the boy. The boy's eyes then appeared straight.

Mrs. Weaver contended that she told Cheng in subsequent visits she was concerned about Wesley's sight because he couldn't see well with his glasses and would take them off.

The doctor later performed visual acuity tests on the boy that showed his sight was deteriorating, according to the parents.

In 1989, the couple took the

boy to a different doctor and again voiced concerns that he could not see with glasses. That doctor recommended the boy be seen by a retinal specialist.

By December 1989, the boy could only see hand motions 2 feet in front of him.

It was determined the boy had retinoschisis, a congenital condition in which the retina splits from the eye, ultimately causing the retina to detach.

The turning inward of the eye and decreased vision were signs of that, the Weavers said.

The suit alleged that if Cheng had diagnosed the retinal detachment earlier, the boy's retina could have been surgically reattached sooner, increasing the chances of better vision.

The Weavers said their son, a gifted child, is learning braille but asks when he will be able to see again.

The couple intended to show jurors videotapes of ophthalmologists who would have testified about whether the doctor departed from accepted standards of care.

They also planned to call a psychologist to testify about how the child is dealing with his disability and a vocational economic expert to testify about the child's decreased earning capacity in the future because of his handicap.

Family settles in wrongful death suit

BY LAURI RICE-MAUE
of The Morning Call

The attorney for the family of

an Allentown woman who died after undergoing an operation that was to alleviate heartburn was a week into presenting testimony to

a Northampton County jury when a settlement was reached Monday.

"It's settled and I'm not allowed to disclose any of the terms of the settlement," said Todd Miller, who represented the mother and brother of Marilu Santiago.

When asked if he was pleased with the agreement, he said, "Yes. I'm very happy."

Juana and Ulises Rivera, the 30-year-old Santiago's mother and brother, filed suit on behalf of Santiago's young daughter, Tyanne, who is living with her father in an Allentown homeless shelter.

After the settlement was reached, Dr. Rafic Amro, who performed what an expert witness called the "surgical misadventure" on Santiago in January 1994, sat down on the floor outside Judge William F. Moran's chambers and refused to leave until he received certain documents relating to the case.

At one point, he appeared to be praying.

Moran called him into the courtroom and, with a number of deputy sheriffs standing nearby, explained to him that if he wanted the autopsy report, exhibits that went with it and his depositions as well as those of others, he would have to properly petition the court through his attorney.

"I cannot discuss this case any further with you," said Moran. "We will not permit disruption of the courtroom or the courtroom operations."

The judge then ordered him out of the courtroom and the adjacent corridor area. Amro complied and subsequently left the building without incident, according to Sheriff Alfred Diomedo.

Attorney John McGreevey of Fort Washington, who was appointed by Amro's insurance carrier to represent him, and Edward McCardle of Allentown, who represented Allentown Osteopathic Medical Center, now St. Luke's Allentown Campus, could not be reached for comment.

Miller, in his lawsuit filed four months after Santiago's death, said she had suffered with heartburn for about a year before visiting Amro, who diagnosed an inflamed esophagus and advised her to undergo surgery involving the lower esophagus and the stomach.

But during the surgery, the stomach burst, sending acids into her body that caused an infection that led to organ failure.

Amro, said the suit, failed to diagnose and treat the infection and other medical problems she suffered after the surgery, which was unnecessary.

Before the surgery, he failed to perform tests, prescribe medications to treat the heartburn and refer her to a gastroenterologist or other specialist in the field, Miller said in the suit.

Surgery triggered woman's death, family's suit says

By SUSAN TODD
Of The Morning Call

The family of a 30-year-old Allentown woman, who believed surgery would end a yearlong bout of heartburn, filed a lawsuit yesterday alleging an Allentown Osteopathic Medical Center surgeon performed an unnecessary and incompetent operation that led to her death.

Marilu Santiago, an unemployed, single mother who lived on N. 6th Street with her young daughter, was diagnosed by Dr. Rafic Amro of Bethlehem as having an inflamed esophagus in January. The doctor later advised Santiago to undergo a nissen fundoplication — an operation involving the mobilization of the lower esophagus and the stomach — to cure her condition, according to the lawsuit.

Santiago's death was caused by "a surgical misadventure," according to the lawsuit.

The suit, filed in Northampton County Court on behalf of Santiago's daughter; her mother, Juana Rivera, and Ulises Rivera, her brother, alleges that the surgery triggered a number of medical problems, including septic shock and multi-organ failure caused by infection.

In the suit, Todd Miller, an Allentown lawyer representing Santiago's family, maintains Amro did not perform tests, did not prescribe medicines and did not refer the woman to a gastroenterologist or other specialist before doing surgery.

Dr. Saeed Bazel, who assisted Amro during Santiago's surgery, and Allentown Osteopathic Medical Center are also named in the lawsuit.

Bazel is being sued for negligent and careless conduct. The hospital is charged with failing to provide adequate medical care, failing to monitor the qualifications and competence of all its doctors and permitting unskilled doctors to operate on Santiago.

Miller noted in the suit that Amro, who studied medicine for seven years in Syria, was not rec-

ommended to continue after the first year of a four-year residency program at Mount Carmel Mercy Hospital in Michigan. Amro was denied staff privileges at St. Luke's Hospital, where he also served part of his residency.

Miller said he obtained information about Amro's background from records filed in court after Amro sued St. Luke's Hospital for denying him staff privileges.

"Had they investigated his background, I find it hard to believe that they would have given him privileges," Miller said.

Amro would not comment yesterday on the suit.

Evon L. Midei, a senior vice president at the hospital, said he could not comment on the suit. In response to questions, Midei said Amro's status is under review. He would not elaborate.

Midei, who was reached at home after the suit was filed yesterday afternoon, said Amro has worked at the hospital longer than two years. He did not have information about whether the hospital knew of the doctor's background when he received staff privileges at Osteopathic.

According to the suit, Amro performed surgery on the woman on Jan. 14 at Allentown Osteopathic. Santiago suffered a medical emergency the following day and had to be revived with cardiopulmonary resuscitation.

Shortly after midnight on Jan. 16, the suit states, Santiago stopped breathing again and could not be revived by hospital staff. She died at 12:45 a.m., according to the suit and her death certificate.

The death certificate attributes Santiago's death to respiratory failure due to lung collapse. The certificate notes that an autopsy was not performed.

As a result of Amro's surgery, the suit states, blood was prevented from reaching Santiago's internal organs, causing gangrenous necrosis or infection.

Amro, the suit alleges, "failed to recognize the septic shock caused by his own malpractice and failed to give [Santiago] proper treatment for medical problems" she was suffering after the operation.

\$250,000 awarded for loss of eye

Jury says inn negligent for letting worker take glass outside

By JOHN CLARK
Of The Morning Call

A former Coopersburg man has been awarded \$250,000 in damages by a Lehigh County Court judge after a jury found the Spring Valley Inn negligent in an incident that cost the man his right eye.

Ronald Riccio sued the inn in 1984. According to his attorney, Todd Miller of Allentown, the suit was prompted by an incident that happened on the night of July 16-17, 1983.

The defendants in the suit were Farygreen Inc., trading as the Spring Valley Inn, Bethlehem R. 4; Christine Gelsbach, an employee of the bar, and Carole Wilkie, an employee and daughter of the owners. Miller said the inn is owned by Dr. Rex Green and Mary Green.

Judge James Knoll Gardner, who resided over the seven-day trial, said the award was the fourth largest he has seen in his seven years as a judge. Gardner handles the majority of civil cases in Lehigh County.

Miller said the incident started in the inn and ended early on the morning of July 17 in an upper parking lot at the inn when Wilkie used a wine glass in Riccio's face. He said the glass broke, and a piece of it severely cut Riccio's eyeball.

The lawyer said Riccio had gone to the bar on the night of July 16 to

discuss his live-in arrangements with Wilkie. However, Wilkie was tired and irritable and didn't want to talk about the relationship, Miller said.

As the night wore on, Miller said, although Riccio became visibly intoxicated he was still served by bartender Gelsbach. Miller also said that Wilkie, who reportedly had been placed in a supervisory capacity at the bar by the Greens, also was served while she was visibly intoxicated.

Miller argued that the inn was guilty of negligence because it served Riccio and Wilkie when they were visibly intoxicated and that it was negligent in allowing Wilkie to leave the inn with the glass of wine. Miller said Wilkie didn't deny leaving the bar with the wine glass after the bar's closing details had been attended to.

Miller said the testimony showed that when Wilkie left the bar, she went to the upper parking lot where she encountered Gelsbach and Douglas Brown. They were sitting in a vehicle, he said.

Riccio, who apparently followed Wilkie to the upper parking lot, claims that he was hit in the face with the glass when he attempted to get Wilkie out of the vehicle. He contended that he pulled her by the shoulder, but not forcefully.

Wilkie, according to Miller, testi-

fied that she was holding the glass of wine when Riccio forcefully dragged her from the car. He said she testified that he pulled her by the hair and shoulder and that she tossed the glass over her shoulder in self-defense.

Miller contended that the behavior of both Riccio and Wilkie would have been different had they not been intoxicated. About Wilkie, Miller said, "She would not have thrown the glass in his face if she had not been intoxicated. She would have used better judgment."

Miller also contended that the incident would never have happened had Wilkie not had the wine glass. "Had the glass not been brought, the glass could not have been used," he said.

Before the case went to the jury late Friday afternoon, Wilkie was removed, by mutual consent, as a

defendant. She was represented by Allentown attorney W. Hamlin Neely.

The inn and its owners were represented by Philadelphia attorney S. David Fineman.

Miller said the jury deliberated for about 2½ hours Friday. He said the jury concluded that neither Wilkie nor Riccio had been served while visibly intoxicated. The panel did find, however, that Wilkie left the bar with the glass of wine.

Therefore, under the comparative negligence law, Miller said, the jury found that Wilkie, as an employee of the bar, was 50 percent responsible for the incident and that Riccio was 50 percent responsible "for following her around."

The jury awarded Riccio \$500,000, but that amount was halved by Judge Gardner to reflect Riccio's percentage of negligence.

LVH settles suit over amputations

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Two Dems vie for Whitehall post

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LOCAL

THURSDAY, APRIL 10, 2003

THE MORNING CALL

SECTION B

LVH settles lawsuit over leg amputations

Coplay man claimed delayed care resulted in the loss of his legs.

Lehigh Valley Hospital has settled a lawsuit filed by a Coplay man who said delayed care resulted in his legs being amputated above the knees.

Melvin Billig and his wife, Winifred, of 105 S. Eighth St., had sued the hospital. Terms of the settlement reached last month in Northampton County Court were not disclosed.

Attorney Todd S. Miller of Allentown represented the

Billigs.

He said he could not discuss the settlement other than that it was reached after three conferences.

Hospital attorney Richard Stevens of Allentown could not be reached.

The lawsuit, filed in 2001, gave the following account:

Two surgeons who were not sued performed hernia surgery on Billig on Dec. 2, 1999.

Following surgery, Billig complained of pain and numbness in his leg. Nursing personnel told Billig to "stop your whining."

Billig continued to complain of numbness while in the post-anesthesia unit, and hospital records indicate that

Nursing personnel told Billig to "stop your whining."

his feet felt cool and he was having circulation problems.

The following day, Billig could not move his legs below the knees, and hospital personnel delayed paging a

doctor to assess Billig's decreased sensation and inability to move.

Surgeons tried to remove clots from arteries that provide blood to the legs, but the damage had been done, and both legs were amputated.

Billig was a longtime teacher at the Lehigh Career and Technical Institute.

He also worked at Lehigh University as assistant director of the physical plant in charge of construction at residence halls until he retired in late 1994. After that, he worked part-time doing light construction.



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Trial

VERDICTS & SETTLEMENTS : MOTOR VEHICLE LIABILITY

NEGLIGENT OPERATION OF TRACTOR-TRAILER LEADS TO REAR-END COLLISION

September 2019



Credit: Illustration by Eva Vázquez

Jorge Amparo, 45, was traveling on an interstate highway in rainy conditions during heavy traffic. Evans Delivery Co. driver Jose Ayala was operating an 80,000-pound tractor-trailer in the roadway's middle or left lane while talking on his cellphone. As Amparo stopped for traffic in the left lane, Ayala rear-ended his vehicle, causing it to collide with the vehicle in front of him. Emergency workers used the jaws of life to extract Amparo, who was taken to a nearby hospital. He underwent a discectomy to treat a herniation at L5-S1 and required rehabilitation. Despite this treatment, he has been diagnosed as having failed back syndrome, necessitating physical therapy and epidural injections. He also suffers from post-concussion syndrome, which affects his ability to concentrate or continue working as a forklift operator earning \$70,000 annually. His medical expenses were almost \$302,000.

Amparo and his wife sued Ayala, Evans Delivery Co., and truck owners Daniel E. Matos and D. Matos Transport, Inc., alleging that Ayala had been following too closely behind Amparo and was distracted by a phone call at the time of the collision. The plaintiffs asserted that Ayala had either entered the left lane or lost control of the tractor-trailer before rear-ending Amparo's vehicle.

The jury awarded approximately \$15 million, including more than \$727,500 to Amparo's wife.

Citation: *Amparo v. Ayala*, No. FST-CV16-6029461-S (Conn. Jud. Dist. Stamford/Norwalk May 22, 2019).

Plaintiff counsel: AAJ members Brenden P. Leydon and Nicholas E. Wocl, both of Stamford, Conn.; and Todd Miller, Allentown, Pa.

Plaintiff experts: Paul Atchley, cognitive psychology, Lawrence, Kan.; Stephen Benanti, accident reconstruction, Framingham, Mass.; Alex Karras, life care planning, Jamison, Pa.; Walter Guntharp, trucking industry, Indianapolis; Guy Fried, psychiatry, Philadelphia; Gene Salkind, neurosurgery, Huntingdon Valley, Pa.; and Andrew Verzilli, economics, Lansdale, Pa.

Defense experts: Richard Bernstein, orthopedics, Hamden, Conn.; and Kirk O. Cummings, trucking, Lapeer, Mich.

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