

CASE INFORMATION SHEET
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COUNTY AND COURT:

Lake County Circuit Court

NAME OF CASE:

ANGELA SZYMANSKI, DWAYNE E. SZYMANSKI, her husband, individually
and as parents and natural guardians of ALYSSA K. SZYMANSKI, a
minor, and JOSIAH R. SZYMANSKI, a minor,

Plaintiffs,

v.

CARDIOVASCULAR ASSOCIATES OF LAKE COUNTY, P.A.,

Defendants

CASE DOCKET NO.: CASE NO. 2005-CA- **JUDGE:** Lawrence J. Semento
1212

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL [full names, firm and
city]:

Dock A. Blanchard, Esq.
Blanchard, Merriam, Adel & Kirkland
Ocala, FL

James W. Clark, Esq.
Clark & Martino, P.A.
Tampa, FL

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL [full names, firm and
city]:

Jennings L. Hurt III, Esq.
Richard S. Womble, Esq.
Art C. Young, Esq.
Rissman, Barrett, Hurt, Donahue
& McLain, P.A.
Orlando, FL

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT [at time of accident or occurrence]:

42-year old white female. Kindergarten teacher. Married with two children ages 18 and 15.

FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

March 26, 2003. Tavares, Florida.

CAUSE OF INJURY: [factual description including allegations and defenses on liability]:

Angela Szymanski was a patient of Dr. Cacodcar, a cardiologist in Ocala, who was evaluating Ms. Szymanski's problems with syncope and bradycardia. Dr. Cacodcar eventually referred the patient to Dr. Miguel Bryce, a board certified interventional cardiologist in Tavares.

Dr. Bryce subsequently implanted a pacemaker on March 26, 2003 at Florida Hospital Waterman. During the procedure, Dr. Bryce implanted electrical leads in the right ventricle and right atrium. A chest x-ray showed normal location of the leads after implantation.

The patient returned to see Dr. Bryce on April 24, 2003. At that time, a technician from Medtronic was present to test the pacemaker for proper operation. During the pacemaker "interrogation", it was discovered that there was a decreased response in the right atrial lead. Dr. Bryce explained the situation to Ms. Szymanski. He told her that she needed to have the pacemaker checked in two to four weeks to determine if inflammation was causing the lack of atrial "capture".

It is accepted that some leads will be ineffective for a period of time due to inflammation which, when resolved, results in a return to normal function of the lead. Dr. Bryce explained this to the patient and told her that she could continue to see him or she could return to Dr. Cacodcar since his office was closer to her home in Ocala. He expected to either see Mr. Szymanski in a few weeks or that Dr. Cacodcar would continue to follow her.

The patient was next seen by Dr. Cacodcar on June 25, 2003. At trial, Ms. Szymanski confirmed that she told Dr. Cacodcar that the right atrial lead was not functioning normally. Dr. Cacodcar denied that Ms. Szymanski told him this information.

Plaintiffs argued that Dr. Bryce should have communicated the trouble with the atrial lead to Dr. Cacodcar by telephone or in writing. Plaintiffs contended that the failure to communicate caused Dr. Cacodcar to assume that everything was acceptable and not continue to investigate the lack of function of the lead.

Thus, Ms. Szymanski's testimony, if believed, meant that Dr. Cacodcar was, in fact, well aware of the problem because the plaintiff herself told him. Nevertheless, Dr. Cacodcar wrote to Dr. Bryce on June 25, 2003 and made no mention that there was any problem with the lead or that he had a plan to continue to investigate it.

Next, a second Medtronic technician evaluated the leads at a second interrogation at Dr. Cacodcar's office on July 10, 2003. The technician found that the right atrial lead was not working properly. The technician increased the amount of current to the lead and told the patient to return to her cardiologist in six months. The technician testified that he would not have increased the current and would not have suggested a six-month follow-up visit unless he had confirmed that with Dr. Cacodcar before making the changes.

Dr. Cacodcar denied that the technician conferred with him regarding the changes or the follow up. Thus, Dr. Cacodcar claimed that both the Medtronic technician and Ms. Szymanski were incorrect in their memory of events.

On October 4, 2003, Ms. Szymanski suffered a stroke. During her rehabilitation several weeks later, it was discovered that the atrial lead had somehow moved through the septum to the left atrium. The treating cardiologist and interventional cardiologists at Shands, Dr. Geiser and Dr. Ann Curtis, surmised that the stroke had occurred when a clot formed on the tip of the lead when it was in the left atrium, and then the clot traveled to Ms. Szymanski's brain causing an embolic stroke.

NATURE OF INJURY [please be specific concerning injuries, treatment and medical testimony]:

Stroke resulting in right sided hemiparesis with foot drop and asphasia.

Sharon Griffin, M.Ed.
Stuart, FL

Vocational Rehabilitation

Ms. Griffin testified that Ms. Szymanski was unemployable and that she would need 24 hour attendant care.

Frederick A. Raffa, Ph.D.
Orlando, FL

Economist

Dr Raffa estimated Ms. Szymanski's the present value of her total economic damages to be \$5,160,909 to \$7,189,471.

DEFENDANT'S EXPERT WITNESSES [include full name, degree, specialty and city]:

Kim A. Klancke, M.D.
Daytona Beach, FL

Cardiology

Dr. Klancke testified that Dr. Bryce complied with the standard of care. He explained that lead migration is a known complication of pacemaker implantation. He stated that Dr. Cacodcar should have communicated with Dr. Bryce in June or July 2003 when he was told that the lead was not working properly. He explained that the testing proved that the lead was in the proper place at time of implantation and for months afterwards.

Richard Boehme, M.D.
Jacksonville, FL

Neurologist

Dr. Boehme explained that Ms. Szymanski's stroke was most probably a thrombotic event and not embolic (related to a blood clot). This conclusion was based upon his finding that the damage to the brain occurred in the subcortical region where embolic events only rarely occur.

DATE OF VERDICT:

October 28, 2009.

VERDICT:

Defense Verdict

COMPARATIVE NEGLIGENCE [if applicable]:

NA

JUDGMENT:

For Defendant, Cardiovascular Associates of Lake County, P.A.

DATE OF JUDGMENT:

November 23, 2009

DEFENDANT'S OFFER:

\$250,000

PLAINTIFF'S DEMAND:

\$22,000,000

ATTORNEY'S COMMENTS:

This case was previously tried in May 2009 resulting in a hung jury and mistrial.

Plaintiffs had previously named Dr. Cacodcar and Medtronic as Defendants. Those parties settled with Plaintiffs for a confidential amount.

Plaintiffs served a Motion for New Trial on November 5, 2009 which was denied on November 6, 2009. Plaintiffs served a Notice of Appeal on December 16, 2009.

At trial, Plaintiffs' standard of care and causation witness, Anne Curtis, M.D., agreed that Dr. Cacodcar and Medtronic were negligent in their treatment of Plaintiff and that their negligence was a contributing cause of the stroke.

Dr. Curtis published a misleading article about the radiographic studies in this case. She admitted that the "facts" stated in her article were substantially incorrect. Dr. Curtis also changed her testimony regarding the location of the stylet used to implant the atrial lead from the first trial. She ultimately agreed with her prior testimony that a lateral x-ray does not show which chamber in which a lead has been placed.

The issue of caps on non-economic damages was submitted to the jury in accordance with Florida Statute Section 766.118. The jury was asked to determine if Ms. Szymanski's injury was "catastrophic" which would determine the amount of the cap on non-economic damages applicable.

These issues were not reached as the jury found that Dr. Bryce had not been negligent.

Submitted Jennings L. Hurt III **Date:** January 8, 2010

By: Richard S. Womble
Art C. Young

Firm: Rissman, Barrett, Hurt, Donahue
& McLain, P.A.

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