

(46) JOYCE EUSEPI, individually and as personal representative of AMERIGO EUSEPI vs. MAGRUDER EYE INSTITUTE and MICHAEL E. POHLOD, M.D.

COUNTY/DOCKET #JUDGE: Orange / 02-CA-11979-32 / Renee Roche

PLAINTIFF(S) ATTORNEY(S): James J. Traitz, Miami

DEFENDANT(S) ATTORNEY(S): Vance R. Dawson and Laura B. Floyd of Rissman, Barrett, et al., Orlando

AGE/SEX/OCCUPATION OF PLAINTIFF: 67 / M / Delivery Driver

ORANGE COUNTY (Continued)

EUSEPI (Continued)

CAUSE OF INJURY: *Medical Negligence/Eye Surgery/Post-surgical Treatment.* On March 7, 2001, Plaintiff Amerigo underwent strabismus surgery performed by Dr. Michael Spencer. Plaintiffs alleged that Defendant Magruder Eye Institute was negligent for not having seen Amerigo on March 9, when he and/or someone on his behalf allegedly called Magruder Eye Institute with regard to right eye pain and swelling post-surgery. Defendant Dr. Pohlod was individually criticized for having failed to conduct an eye examination on March 10, when Amerigo's daughter, Tina Fickiessen, allegedly called after hours and reported that Amerigo's right eye was painful and swollen. When Dr. Pohlod was contacted by Amerigo's daughter on March 10, she explained that Amerigo had undergone strabismus surgery and was experiencing some discomfort. Dr. Pohlod stated that he contacted Amerigo while outside the office; therefore he did not review Amerigo's chart or make any clinical note with respect to this patient's problem. Dr. Pohlod asked Tina about Amerigo and she reported that her father's right eye was painful and swollen but that it had not changed since the date of surgery, March 7. Dr. Pohlod told Tina that Amerigo's symptoms were to be expected and because there was no change in the symptoms from the date of surgery, it would not be necessary for her father to be seen at Magruder Eye Institute on that day. Dr. Pohlod's discussion with Amerigo's daughter apparently assuaged any concerns she might have had; therefore an emergency appointment was not scheduled and the regularly scheduled post-operative visit for March 12 remained in place. Amerigo was seen by Dr. Nader Moinfar on March 12. Amerigo was immediately taken to surgery and underwent a paras plana vitrectomy. Amerigo is now deceased, this action was brought by his widow, Joyce.

NATURE OF INJURY: Loss of visual acuity in right eye; poor vision. Dr. Hamburger testified that Dr. Pohlod should have seen Plaintiff on March 10, and if he had there would have been a different outcome. Dr. Parker testified that there was no report of decreased vision as of March 10. Dr. Pohlod was reasonable in not seeing Plaintiff that day.

EXPERT WITNESSES:

PLAINTIFF'S: Harry A. Hamburger, M.D., Ophthalmology, Miami (depo)

DEFENDANT'S: C. Jackson Parker, M.D., Ophthalmology, Orlando

VERDICT: *For the Defendants on February 22, 2007.*

EDITOR'S NOTE: Both Defendants offered \$100 to each Plaintiff. Plaintiffs demanded \$175,000 on September 30, 2004; they revised their demand to \$50,000 on January 20, 2005. Plaintiffs served a Motion for New Trial on March 5, 2007, which is pending.