

CASE INFORMATION SHEET
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COUNTY AND COURT: CIRCUIT COURT, HILLSBOROUGH COUNTY, TAMPA,
FLORIDA

NAME OF CASE:

TERRY TIBBS and KAREN TIBBS,
his wife,

Plaintiffs,

v.

SONDRA SHIELDS, M.D.,

Defendant.

CASE DOCKET NO.: 08-CA-18467
Division C

JUDGE: James Barton

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL:

Christopher S. Knopik, Esquire
Maureen M. Deskins, Esquire
Knopik Deskins Law Group
1611 W. Platt Street
Tampa, FL 33606

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL:

RICHARD B. MANGAN, JR., ESQUIRE
R. CLIFTON ACORD, II, ESQUIRE
Rissman, Barrett, Hurt,
Donahue & McLain, P.A.
1 N. Dale Mabry Hwy
11th Floor
Tampa, FL 33609

AGE/SEX/OCCUPATION OF THE PLAINTIFFS:

Terry Tibbs: 65/Male/licensed practical nurse.
Karen Tibbs: 49/Female/Unemployed.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

April 23, 2007 at Brandon Ambulatory Surgery Center during a lumbar epidural steroid injection utilizing monitored anesthesia care with propofol.

CAUSE OF INJURY:

On April 23, 2007 Mr. Tibbs presented to Brandon Ambulatory Surgery Center (BASC) for a lumbar epidural steroid injection he had scheduled with his pain management doctor. Dr. Sondra Shields, an independent contractor anesthesiologist, was filling in that day on a per diem/locum tenens basis and was responsible for directing the anesthesia care at BASC. There were 40 cases scheduled in two operating rooms all to be performed using monitored anesthesia care (MAC) with propofol. The actual administration of the propofol and monitoring was delegated to the CRNAs under Dr. Shields' supervision and direction.

Dr. Shields cleared Mr. Tibbs for MAC anesthesia with propofol to be administered by a CRNA. Dr. Shields allegedly had very little knowledge of the specific qualifications or experience of the CRNA and did not speak with her prior to the procedure regarding Mr. Tibbs' classification as an ASA III patient and the need for special considerations because of his sleep apnea. The surgery center also had a written policy requiring end tidal CO2 monitoring which was not followed in Mr. Tibbs' case.

According to plaintiffs' expert, the CRNA administered a large dose of propofol shortly after the procedure began and lost the airway. Mr. Tibbs coded and experienced respiratory arrest Mr. Tibbs' followed by cardiac arrest which was caused by a combination of the rapid administration of a large dose of propofol, improper monitoring and the absence of end tidal CO2 monitoring. Dr. Shields, who was performing pre-anesthesia evaluations on other patients at the time, was called to the room. She intubated Mr. Tibbs and he was transferred to Brandon Hospital for further care.

Mr. Tibbs developed memory loss, PTSD and inability to multitask as a result of an alleged anoxic and/or hypoxic brain injury. He ultimately had to resign his position as a cardiac LPN at

Brandon Hospital because he was having difficulty remembering verbal orders from physicians and would have stress reactions when patients would code. He was subsequently fired from four other jobs as a result of his inability to keep up. He had never been fired from any job he held before the incident which included a career in military intelligence and a second career as a LPN. He was unemployed at the time of trial.

Plaintiffs argued that Dr. Shields had the overall responsibility for all aspects of anesthesia care including pre-op, intra-op and post-op. Plaintiffs also argued that end tidal CO2 monitoring was required and was not utilized. Plaintiffs' expert, Dr. John Downs, testified that Dr. Shields had little to no experience working with the CRNA and that Dr. Shields failed to determine that the CRNA would properly administer the propofol and monitor Mr. Tibbs' airway.

In addition, Plaintiffs argued that Dr. Shields was ultimately responsible for the negligence of the CRNA because the CRNA could not practice unless Dr. Shields was present, and that Dr. Shields should have made sure that end tidal CO2 monitoring occurred during the case. According to the plaintiff, if end tidal CO2 had been used the respiratory compromise which ultimately progressed to cardiac arrest would have been detected much sooner and the code would not have occurred.

NATURE OF INJURY:

Brain damage, memory impairment, inability to multitask, PTSD.

PLAINTIFFS' EXPERT WITNESSES:

John Downs, M.D. - Anesthesiology
10909 SW 189th Terrace
Dunnellon, Florida.

Dr. Downs was the Plaintiffs' standard of care expert. He testified that Dr. Shields did not communicate an appropriate anesthesia plan of care to the CRNA prior to allowing her to administer propofol to Mr. Tibbs. It was also Dr. Downs' opinion that Dr. Shields had the overall and ultimate responsibility for all aspects of anesthesia care at BASC on the day of incident.

This included ensuring that the BASC policy requiring end tidal CO2 monitoring during pain management procedures was followed, which did not occur. He also testified that Dr. Shields was

responsible for the negligent administration of propofol by the CRNA and her negligent monitoring of Mr. Tibbs' airway.

Dana Debosky, Ph.D. - Neuropsychology
DeBoskey and Associates
12909 North 56th Street
Suite 209
Temple Terrace, Florida.

Dr. DeBoskey was the Plaintiffs' neuropsychological IME expert. She testified that Mr. Tibbs' neuropsychological testing showed that he was suffering memory impairment, inability to multi-task and post traumatic stress disorder as a result of the incident at issue.

Fred Raffa, Ph.D. - Economist
Raffa Consulting Economists, Inc.
17 South Osceola Avenue
Suite 200
Orlando, Florida.

Dr. Raffa was the Plaintiff's expert economist. He testified as to the value of the Plaintiff's wage loss claim. In his opinion the value of the Plaintiff's past and future loss earnings as a LPN was approximately \$288,000.

DEFENDANT'S EXPERT WITNESSES:

Louis Guzzi, M.D. - Anesthesiology
590 Estates Place
Longwood, Florida.

Dr. Guzzi was the Defendant's standard of care expert. He testified that Dr. Shields met the standard of care. Her pre-anesthesia evaluation of Mr. Tabs was reasonable and appropriate and she was permitted to delegate the actual administration of propofol and airway monitoring to the CRNA who was a separate individually licensed and trained professional.

Dr. Shields was not responsible for the negligence, if any, of the CRNA in the actual administration of propofol and airway monitoring. He also testified that end tidal CO2 monitoring was not required by the standard care even though the BASC policy required it.

Allen Elster, M.D. - Neuroradiology
Wake Forest School of Medicine
Department of Radiology
The Bowman Gray Campus
Medical Center Blvd
Winston-Salem, North Carolina.

Dr. Elster was the Defendant's neuroradiology expert who had reviewed Mr. Tibbs' pre and post incident brain MRIs. It was his opinion that the pre and post incident MRIs were virtually identical and that there was no radiographic evidence suggesting there was any area of brain damage that would have been related to a hypoxic or anoxic event.

Rodney Vanderploeg, Ph.D. - Neuropsychology
Tampa Palms Professional Center
5322 Primrose Lake Circle
Suite F
Tampa, Florida.

Dr. Vanderploeg was the Defendant's neuropsychology IME expert. He performed neuropsychological evaluation and testing on Mr. Tibbs after Dr. DeBoskey had tested him. At the time of Dr. Vanderploeg's evaluation he found Mr. Tibbs to be functioning very well. Mr. Tibbs did not demonstrate any evidence of memory impairment related to the events at issue.

In addition, he did not have PTSD. Finally, from the standpoint of a neuropsychologist and based upon the results of the neuropsychological testing Dr. Vanderploeg performed it was his opinion that Mr. Tibbs was employable as an LPN.

VERDICT:

For Defendant.

DATE OF VERDICT:

October 15, 2013

FINAL JUDGMENT:

Pending.

DEFENDANT'S OFFER:

\$0.

PLAINTIFFS' DEMAND:

\$120,000 in a Proposal for Settlement in December 2008.

At trial Plaintiffs demanded approximately \$343,000 in economic damages (\$55,000 in past medicals and \$288,000 in wage loss). No specific amount was demanded for non-economic damages.

ATTORNEY'S COMMENTS:

Plaintiffs sought a special borrowed servant jury instruction which would have held Dr. Shields liable for the actions of the CRNA, which was denied.

Submitted By: Richard B. Mangan, Jr., Esq. Date: November 11, 2013
R. Clifton Acord, II, Esq.

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