

BREVARD COUNTY

(3) **DORIS S. THOMAS vs. EDWARD ST. MARY, III, M.D.; BREVARD ORTHOPEDIC CLINIC; JAY E. OLSSON, D.O.; and BREVARD REHABILITATION MEDICINE, P.A.**

COUNTY/DOCKET #/JUDGE: Brevard / 05-2002-005936 / James Earp

PLAINTIFF(S) ATTORNEY(S): Mark P. Cressman, Winter Garden; H. Clay Parker of Parker & Assoc., P.A., Maitland

DEFENDANT(S) ATTORNEY(S): Art C. Young and Juan A. Ruiz of Rissman, Barrett, et al., Orlando for Olsson and Brevard Rehabilitation Medicine; Brian D. Stokes and Daniel Tressler of Unger Law Group, Orlando for St. Mary

AGE/SEX/OCCUPATION OF PLAINTIFF: 78 / F / Secretary

CAUSE OF INJURY: *Medical Negligence/Failure to Timely Diagnose Compartment Syndrome.* Plaintiff underwent a left total knee arthroplasty on July 21, 1999, at Holmes Regional Medical Center by Dr. Daniel King. Plaintiff was admitted to Sea Pines Rehabilitation Hospital on July 24, for therapy following her surgery. Defendant Dr. Olsson, a physical medicine and rehabilitation specialist, was Plaintiff's attending physician at Sea Pines, overseeing her rehabilitation. On July 26, Plaintiff began to have pain and swelling in her left calf which Dr. Olsson felt was consistent with the formation of a deep venous thrombosis (DVT). Dr. Olsson instituted measures to rule out a DVT, including anticoagulation and Doppler studies of Plaintiff's left calf. Despite Dr. Olsson's efforts to rule out DVT on July 26 and July 29, Plaintiff continued to have pain and swelling in her left calf. Dr. Olsson consulted with Defendant Dr. St. Mary, an orthopedic surgeon and partner of Dr. King, the surgeon who had performed the total knee arthroplasty on Plaintiff. Dr. St. Mary saw Plaintiff at Sea Pines on July 29, and determined that she was not a surgical candidate. Dr. St. Mary believed that Plaintiff was likely having bleeding into the subcutaneous layers of her left calf as a result of anticoagulation. Dr. St. Mary ordered the anticoagulation stopped and put Plaintiff on bedrest. On July 31, despite conservative therapies having been instituted by Dr. St. Mary, Plaintiff's left calf was no better. Based upon new complaints of numbness in the left foot, Plaintiff was transferred to the Holmes Regional Medical Center emergency department for evaluation. At the time of her transfer, the presumptive diagnosis was compartment syndrome of the left lower extremity. Plaintiff was evaluated by the emergency room physician and Dr. St. Mary was again consulted. Dr. St. Mary took Plaintiff emergently to surgery where he evacuated a large hematoma from her popliteal fossa. Dr. St. Mary also identified a four mm laceration of Plaintiff's popliteal artery. It was undisputed at trial that the laceration of the artery was likely caused by Dr. King at the time of the total knee arthroplasty. Based upon Dr. St. Mary's operative report and deposition testimony, he did not believe that Plaintiff ever developed a compartment syndrome. Plaintiff alleged that Dr. Olsson failed to timely diagnose and treat compartment syndrome in her left leg following the left total knee arthroplasty on July 21, performed at Holmes Regional Medical Center. Plaintiff further alleged that Dr. Olsson should have consulted with the orthopedic surgeon, Dr. St. Mary, earlier than July 29, so as to have allowed Plaintiff to undergo corrective surgery for her alleged compartment syndrome. According to Plaintiff, had she undergone earlier surgical decompression of her left lower extremity, she would not have suffered a permanent peroneal nerve injury. Plaintiff claimed that Dr. St. Mary should have more thoroughly evaluated her leg on July 29. Plaintiff further alleged that Dr. St. Mary should have taken her to surgery on July 29, to decompress the impending compartment syndrome.

NATURE OF INJURY: Left peroneal nerve injury; hematoma in popliteal fossa; laceration of popliteal artery; permanent partial foot drop on left foot; weakness of left foot; permanent neuropraxia and paresthesias of left foot. Dr. Davne was critical of Dr. St. Mary for failing to take Plaintiff to surgery on July 29. Dr. Mauro was critical of Dr. Olsson for allegedly failing to stop the anticoagulation in the face of an abnormally low platelet count. Dr. Mauro was also critical of Dr. Olsson for failing to consult with Dr. St. Mary for surgical evaluation prior to July 29. Dr. Creamer opined that Dr. Olsson was within the standard of care in evaluating Plaintiff for DVT in the immediate post-operative period instead of considering a bleeding complication as the cause for post-operative swelling. Dr. Creamer also opined that Dr. Olsson's consultation with Dr. St. Mary on July 29 regarding Plaintiff's progressive swelling was entirely appropriate. Dr. Creamer did not think that Dr. Olsson had a duty to transfer Plaintiff to Holmes Regional Medical Center for a vascular consultation. Dr. Hutchinson did not think that Dr. St. Mary had a duty to take Plaintiff to surgery on July 29. Dr. Hutchinson also opined that Plaintiff's peroneal nerve injury occurred during the July 31 surgery by Dr. St. Mary to repair the popliteal artery laceration.

EXPERT WITNESSES:

PLAINTIFF'S: Sanford H. Davne, M.D., Orthopedic Surgery, Newtown Sq., PA
Kirk J. Mauro, M.D., Physical Medicine/Rehabilitation, Tallahassee

DEFENDANT'S: Michael J. Creamer, D.O., Physical Medicine/Rehabilitation, Maitland
Mark R. Hutchinson, M.D., Orthopedic Surgery, Elmhurst, IL

VERDICT: For the Defendants on April 25, 2007.

BREVARD COUNTY (Continued)

THOMAS (Continued)

EDITOR'S NOTE: Defendants offered \$5,001 in December 2002; Plaintiff demanded \$375,000 in December 2005.

DEFENDANT'S ATTORNEY'S COMMENTS: This matter was tried in Brevard County for eight days. Notably, the parties were ordered to non-binding arbitration on August 12, 2005. Following arbitration, an award of \$220,000 was entered in favor of Plaintiff against Defendants. Liability between Dr. Olsson and Dr. St. Mary was apportioned equally. Defendants filed for Trial de Novo and proceeded to jury trial.