

\$20.8 Million Award for Podiatrist whose Foot was Amputated

By Laurie Stewart
Of the Legal Staff
NOVEMBER 19, 2001

The logo for 'The Legal Intelligencer' is displayed in a stylized, gothic font. The text is black and set against a light beige background. Below the text is a thick, dark red horizontal line.

A common pleas jury has awarded \$20.8 million to a Philadelphia podiatrist whose foot was amputated after she entered the hospital for treatment of an unrelated illness.

In March 1997, the podiatrist, Ellisa Young, entered Hahnemann hospital for treatment of Crohn's disease. Shortly after being admitted, a central venal catheter was inserted into her internal jugular so that steriods could be administered intravenously, said her attorney, Rob Ross of Kline & Specter.

Ross said the catheter was left inside Young for 25 straight days, even after she had a fever that jumped three days before the instrument was removed and a whit blood cell count that was high - all signs of a septic infection.

After the catheter was removed, the infection caused a pus-filled clot to travel from Young's lungs into her left foot. The foot became gangrenous. On April 19, Young was released from Hahnemann and was admitted to the Hospital of the University of Pennsylvania.

At HUP, her embolism was diagnosed. However, gangrene infested her foot so severely that it was amputated to the ankle in two surgical procedures. Young returned to her home soon after the surgery but was bedridden and confined to her home for almost two years, Ross said.

"Once she got a prosthesis, she tried to return to work but couldn't because of the pain and of the medications she was on. If she took painkillers, she could not work properly. If she didn't, she was in too much pain to go to work," Ross said.

Ross also said that even when Young was able to go to work, she could not perform her duties. "She could not work as a podiatrist because that id a physical occupation. She had to get on the floor to examine patients. The rigors of the job would make it very difficult to do while she was in pain," Ross said.

Young then filed a suit againd Zitomer, her attending physician; Ahmer Kashif, a resident who treated Young; and Hahnemann.

At trial, Zitomer was represented by Kevin Wright of Wright, Young & McGilvery. Kashif was represented by William Sutton of Post & Schell.

Ross tried the case with Jonathan Cohen, also of Kline & Specter.

The amputation of Young's foot was preventable, Ross said. "Our theory was that they ignored the central line when, in fact, she had symptoms of infection. Her white blood cell count was up, she had a fever, her blood sugar was up. Even one of the defense witnesses admitted that this could be because of an infection," he said.

According to Ross, the defendants argued that the increase in blood sugar and white blood cell count were all symptoms of Crohn's disease. The amount of time the catheter stayed in Young was also disputed. The defense said the device was removed after seven days and was then reinserted for an additional 18 days.

Ross and Cohen countered that if the catheter had been removed when these symptoms were noted, it could have been tested for an infection and the defendants would have known for sure whether the symptoms were simply effects of Young's long-term illness or signs of a more serious infection.

"Their defense was, We didn't see it coming," Ross said.

After a two-week trial before Judge Norman Ackerman, the jury returned its \$20.8 million verdict early Friday afternoon, attributing 60 percent of liability to Zitomer and 5 percent to Kashif. The jury also attributed 35 percent of the liability to the hospital in a separate verdict, Ross said. The verdict against the hospital included agents who examined Young during the course of her treatment.

Ross said he put into evidence damages between \$2.7 million and \$5 million.

Wright said he plans to appeal on behalf of Zitomer. "My client does not have \$20 million in his checkbook...I feel like I am Atticus Finch, because the evidence clearly has nothing to do with the outcome," he said.

"The jury deliberated for about 3 1/2 hours. The verdict sheet had at least 20 questions on it. They were able to do all that, plus decide on the amount of the verdict in that amount of time? The jury probably would have found against the cafeteria workers if they had been on the verdict sheet."

Sutton could not be reached by press time for comment.