

COUNSEL OVERCOMES CAUSATION HURDLE IN ANESTHESIA PARALYSIS CASE

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LAKOSKEY V. ANESTHESIOLOGY PA NO. 27-CV-14-8112

(Minn. Dist. Ct. Hennepin Cnty. Oct. 17, 2015)

In February 2012, 51-year-old auto mechanic Joe Lakoskey entered North Memorial Medical Center in Minneapolis with flu-like symptoms and was administered fluids. Doctors soon discovered he needed surgery for a perforated bowel. Anesthesiologists stopped the fluids an hour before surgery so they could administer anesthesia. At around 5 pm., Lakoskey was given an epidural and underwent surgery.

When Lakoskey woke up in the ICU, he could not move his legs. He told the hospital staff, who said this was common with the epidural, and that once the effects wore off, he would be able to move. For 12 to 16 hours after the surgery, multiple doctors and nurses documented that Lakoskey was able to move his legs, even though he could not. He never regained mobility.

Lakoskey sued the anesthesiologist, claiming that failure to adequately treat his dehydration, along with the placement of the epidural, led to a prolonged period of low blood pressure during surgery, which, in turn, caused a spinal cord injury. The defense never offered to settle. For Lakoskey's attorney, Brandon Thompson of Robins Kaplan in Minneapolis, this made the decision to go to trial easy. After a nine-day trial and eight hours of deliberation, a Hennepin County jury awarded Lakoskey \$9.1 million.

Proving causation can be the trickiest part of a medical malpractice case. Both parties agreed that prolonged hypotension during surgery can cause a spinal cord injury due to inadequate blood flow, so Thompson had to prove that the anesthesiologist's negligence had caused this scenario to occur during Lakoskey's surgery.

As Thompson put it throughout the trial, Lakoskey's blood pressure "got too low for too long." There were two major obstacles: First, during surgery, Lakoskey's blood pressure did not fall to a level that would have been dangerous to a healthy adult. Second, multiple doctors and nurses had documented that Lakoskey could move his legs after surgery.

Thompson was persistent—poring through literature, researching the science, and investigating defense experts. He cross-examined experts using articles they had written, found a more accurate benchmark for safe blood pressure levels during surgery, and struck back with his own theory about the hospital staff's documentation errors.

For people with preexisting hypertension, like Lakoskey, the benchmark for safe blood pressure levels during surgery is higher—at least 70% of resting blood pressure is necessary. In cross-examination, Thompson asked the defense doctor to estimate Lakoskey's blood pressure at given five-minute increments during the surgery. He charted the doctors responses, showing the jury a line graph of Lakoskey's blood pressure, which remained below the safe 70% resting rate for an 85-minute period during surgery—more than enough time to cause a spinal injury.

Thompson also provided the jury with reason to doubt the nurses' and doctors' post-surgery documentation that Lakoskey could move his legs. Thompson found medical literature on diagnosing spinal cord injuries in a post-operative setting, including some in a book that was edited by the defense's own expert. This literature explained that when an epidural is used, diagnosis of a spinal cord injury can be challenging because the symptoms can be mistaken for the side effects of an epidural. This could explain the misdiagnosis

reflected in the post-surgery documentation. Thompson argued that the doctors and nurses had been mistaken, not his client, who repeatedly told nurses and doctors that he could not move his legs immediately after surgery.

Thompson said it was essential to break down the complex medical topics of anesthesia, hypotension, and central nervous system autoregulation in a way the jury could understand. He used visuals and presentations wherever possible, including the powerful graph of Lakoskey's blood pressure over the course of the surgery. "You can never underestimate the importance of having visual explanations of complicated concepts," he said. "If jurors don't understand a concept, they won't care."

Lakoskey is a confident and upbeat person, and this came across during his testimony and resonated with jurors—a man who had been through so much and was now disabled still had hope. Lakoskey believes that with hard work his condition can improve. He sought economic damages to cover a cutting-edge rehabilitation program. Thompson pointed out that "when jurors see your client working hard and striving to get better, they want to take steps to help your client."

Although the jury awarded slightly less in both economic and noneconomic damages than Lakoskey had sought, Thompson and his client were still satisfied with the result—one of the highest medical malpractice verdicts in recent Minnesota history. "This was one of those cases where the civil justice system got it exactly right—a good man, injured through no fault of his own, will have the resources he needs to lead a better life."

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