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DLG Settles Medical Malpractice Lawsuit Against Holy Cross Hospital for \$450,000.00



Dinizulu Law Group, Ltd. recently settled a medical malpractice lawsuit for \$450,000.00 as a result of the negligence of the staff of Holy Cross Hospital in failing to properly administer IV contrast dye.

Plaintiff Elbert Johnson was involved in a car accident on August 10, 2006, after leaving from church. He was taken to Holy Cross Hospital via paramedics. At Holy Cross Hospital, as a precautionary measure to address Johnson's complaints of head and chest pain, an ER physician ordered an IV with contrast dye. The nurse on duty, Mary Kay Slakaitis, acknowledged in her deposition that she placed the IV for the purpose of a CT scan with contrast dye.

Johnson was taken to the CT scan room, where the IV with contrast dye was administered into his left arm with a power injector. Johnson alleged that it was a breach of the standard of care for an IV to be placed in the dorsal side of the left arm, opposite of the palm, if an IV was being administered for contrast dye.



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As a result of the administration of the contrast dye, an infiltration and extravasation occurred, which are complications of the IV therapy. Both complications involve the accidental leakage of an IV solution into surrounding tissue. These complications caused Johnson to have swelling and numbness in his arm, which was not treated for 12 hours. The delay of treatment ultimately caused compartment syndrome in Johnson's arm. Compartment syndrome is a limb- and life-threatening condition which occurs after an injury when there is not a sufficient amount of blood to supply the muscles and nerves with oxygen and nutrients.

Johnson then needed an immediate fasciotomy, which is a surgical procedure where the fascia is cut to relieve tension or pressure commonly to treat the resulting loss of circulation of tissue or muscle. Fascia is thin connective tissue covering, or separating, the muscles and internal organs of the body. It varies in thickness, density, elasticity, and composition, and is different from ligaments and tendons.

Johnson alleged that the placement of the IV was a breach of the standard of care. The defendant, ER physician, however, denied any liability, arguing that it was not his responsibility to recommend or place the IV. The attending physician argued that the defendant was not aware of the complications of the IV.

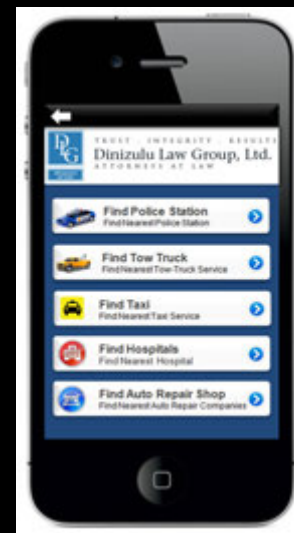
The defendant, Holy Cross Hospital, also attempted to waive the medical bills in an attempt to disallow the admission of the medical bills incurred at trial. However, the plaintiff alleged that while the medical bills may not be able to be used against the defendant, Holy Cross, they can be used against the other defendants pursuant to a case law that has been adopted by Illinois courts. Mr. Johnson was essentially at full function within a year with slight residual deficits in strength.

The case was settled with Holy Cross Hospital, Mary Kay Slakaitis, and the two drivers of the vehicle of the accident for \$450,000.00.

Series Part 3: Going to Trial



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In the first part of our three part series entitled, "What to Expect With Your Personal Injury Claim," we explained the meeting process, initial investigation, medical treatment, and preparing and submitting the demand package for settlement. In our second part, we discussed the process of filing a lawsuit. In the last part of the series, we will discuss court motions and what happens if your case goes to trial. If you have any questions about any part of this series, please don't hesitate to get into contact with us at 312-384-1920.

Before a trial begins, motions in limine are filed by the parties and can often have the effect of shortening a trial. Their purpose is to set the boundaries for the presentation of evidence. Through motions in limine, a party may be able to determine whether or not witnesses will be able to testify and to what extent, what subjects and topics may be appropriate evidence to be presented to a jury, or whether or not a party has enough evidence to move forward to the jury stage.

A motion in limine asks the court for an order or ruling limiting or preventing certain evidence from being presented by the parties at the trial of the case. Generally, this motion is filed in advance of the trial, but a motion may be entertained by the court during a trial, before the evidence in question is offered. The purpose of this motion is to prevent the interjection of matters which are irrelevant, inadmissible or prejudicial.

If a party has been extremely successful in curtailing the evidence that the other party can present, the case may be appropriate for a dispositive motion that can dismiss the case before

it's presented to a jury.

Selecting A Jury

If the case is not dismissed, it will go to trial. The first part of a trial is choosing a jury, and this process is called voir dire. During voir dire, the judge usually makes a brief statement explaining what kind of case is to be tried. The judge will inquire whether there is any reason the potential jurors cannot serve. The judge or the lawyers then ask the potential jurors questions as to whether they have any knowledge of the case or have had specific experiences that might cause them to be biased or unfair.

If either lawyer believes there is information that suggests a juror is prejudiced about the case, he or she can ask the judge to dismiss that juror for cause. For example, a juror can be dismissed for cause if he or she is a close relative of one of the parties or one of the lawyers, or if he or she works for a company that is part of the lawsuit. Each lawyer may request the dismissal of an unlimited number of jurors for cause. Each request will be considered by the judge and may or may not be allowed.

In addition to challenges for cause, each lawyer has a specific number of "peremptory challenges." These challenges permit a lawyer to excuse a potential juror without stating a cause. They allow a lawyer to dismiss a juror because of a belief that the juror will not serve the best interests of the client. Peremptory challenges are limited to a certain number determined by the kind of lawsuit being tried. They can't be used to discriminate on the basis of race or sex.

When both parties have agreed upon a jury, the jurors are sworn in to try the case by the court clerk. Those not selected are excused.

Opening Statements

Once the jury is selected, the first remarks in a personal injury case comes in the form of opening statements – one from the plaintiff's side and one representing the defendant. The opening statement is an opportunity for the parties to indicate to the jury what the testimony of the witnesses will be. It is not an opportunity for the parties to make arguments or conclusions as to what the evidence will be, but only to show what the testimony will be with respect to the case.

The plaintiff's statement is given first. They will

present the facts of the accident or injury and the defendant's alleged role in causing the plaintiff's damages, walking the jury through what the plaintiff intends to demonstrate in order to get a civil judgment against the defendant. The defendant's attorney gives the jury the defense's own interpretation of the facts, and sets the stage for rebutting the plaintiff's key evidence and presenting any defenses to the plaintiff's allegations.

Witness Testimony and Cross-Examination

After the opening statements conclude, each side presents its key evidence and arguments to the jury. Each side may call witnesses and experts to testify in order to strengthen his or her case. Each side can introduce physical evidence, such as photographs, video, documents and medical records.

The witnesses are called to the stand and are sworn in, taking an oath to tell the truth. The party who called the witness to the stand questions the witness through direct examination, getting information through question-and-answer, to strengthen the party's position in the dispute. After direct examination, the opposing party has an opportunity to question the witness through cross-examination, or attempting to poke holes in the witness's story, attack their credibility, or otherwise discredit the witness and his or her testimony. After cross-examination, the side that originally called the witness has a second opportunity to question him or her, through re-direct examination, and attempt to remedy any damaging effects of cross-examination.

After the plaintiff concludes its argument and rests, the defendant can present its own evidence in the same manner, seeking to show it's not liable for the harm that the plaintiff claimed. The defense may call its own witnesses to the stand and can present any of its own evidence in an effort to refute or downplay the key elements of the plaintiff's legal allegations. Once the defense has rested, we have an opportunity to respond to the defense's arguments through a rebuttal. Occasionally, the defense may in turn have a chance to respond to the rebuttal.

Once both sides have presented their case and challenged each other's evidence, each side can rest. Closing arguments are then made by both sides, which gives the attorneys a chance to sum up their cases. Then the plaintiff has a final opportunity to speak or offer a rebuttal for the

closing argument before the judge gives the jury the law that is applicable to the case. This is the final chance for the parties to address the jury before deliberations.

After receiving instructions from the judge, the jury goes through a process called deliberation. This is the first chance for the jury to discuss the case. This can last from a few hours to several weeks. Once a decision is reached, the jury foreperson informs the judge and the judge announces the verdict in open court. An appeal may be made if the verdict is unsatisfactory, but that will depend on a number of factors.

Our talented team of attorneys, experts and consultants will guide you through every step of these processes. You can be confident that our staff's extensive knowledge and experience will get the results that you want. For more information about our firm, staff, experience, and more, log onto <http://www.dinizululawgroup.com>.

2013 Appreciation Reception Photos



Thank you for attending our appreciation reception on August 22nd!

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