

Failure-To-Diagnose Case Settles For \$3.5 Million in Passaic County

Pugliese v. Rametta: Two doctors agreed on Oct. 20 to pay \$3.5 million to settle a claim that they failed to diagnose an arterial occlusion and so caused a patient's paralyzing stroke.

On May 17, 2002, Andrew Grossman, an emergency room doctor at Chilton Memorial Hospital in Pompton Plains, told John Pugliese, then 42, of Wanaque, that the numbness in his arm, face and neck was a pinched nerve, according to evidence proffered by Pugliese's lawyer, David Mazie, of Roseland's Nagel Rice & Mazie. Pugliese's own physician, Mark Rametta of Ringwood, made the same diagnosis a few days later, Mazie says.

Pugliese really was having a transient ischemic attack (TIA), a warning that he had an occlusion of the carotid artery, Mazie says. If treated properly, Pugliese wouldn't have suffered the September 2002 stroke that has left him partially paralyzed, Mazie says. Pugliese was a maintenance worker.



STROKE IN THE MAKING: What the doctors called a pinched nerve was a transient ischemic attack, and proper treatment may have prevented a later stroke, says David Mazie.

Under the settlement, reached after four days of trial in Passaic County before Judge Anthony Graziano, Grossman, covered by PMSLIC, will pay \$1.5 million, and Rametta, covered by Princeton Ins. Co., will pay \$2 million.

Rametta's lawyer, Craig Combs Jr. of Morristown's Giblin & Combs, says the case settled only because the injuries were so serious. He says the defense evidence suggested the plaintiff's account of what he told Rametta was inaccurate and that Pugliese did not suffer a TIA.

Grossman's lawyer, Robert Donnelly Jr. of Cranford's Dughi & Hewit, did not return a reporter's call.

— By Henry Gottlieb

of Lakewood's Bathgate, Wegener & Wolf, says the state's expert testified at trial that the 11.9 acres owned by Bobby Wholesale Distributors Inc. was worth \$575,000 at the time of the taking.

Wegener says his expert placed a \$1.079 million value on the property, a maintenance building and land used as a depot for tractor-trailers. Comparable sales, all properties of six acres or fewer, suggested the land alone was worth about \$75,000 an acre or more, but the state's expert theorized that the fair price for a tract of land as large as Bobby's would be less than \$48,000 an acre, Wegener says.

Wegener says he does not know why the jury awarded \$18,000 more than the value set by his expert. He says he did not put on a case, beyond cross-examination of the state's witnesses, before a three-member condemnation commission that awarded \$525,000, the sum originally placed on deposit. The lawyers on the commission were Nancy Gold of Cherry Hill and Martin Isenberg of Gibbsboro's Scher & Isenberg.

Superior Court Judge Michael Kassel presided at trial.

The state's lawyer, Senior Deputy Attorney General H. Edward Gabler III, did not return a call for comment.

— By Henry Gottlieb

\$1M for Campus Auto Injury

Mirza v. Shei: Rutgers University agreed on Oct. 6 to pay \$1 million to settle a Middlesex County suit by a student struck by a university police car while walking on the Piscataway campus.

The car's driver, Officer Joyce Shei, said she was blinded by afternoon sun glare and was reaching for her cell phone at the time, 4 p.m. on Feb. 4, 2003.

Aaminah Mirza fractured her right patella and tore her left-knee ligament, says her lawyer, Richard Levinson of Levinson Axelrod in Edison. She missed two months of classes and upon returning was in a wheelchair for two months. The plaintiff's expert witness was prepared to testify that Mirza, now 22, is at a heightened risk of arthritis that will require a knee replacement in the future.

The university stipulated to liability and agreed to damages in mediation with retired Appellate Division Judge John Keefe Sr. of Lynch Keefe Bartels in Shrewsbury.

Defense lawyer Jeffrey Kadish, of Morgan, Melhuish, Monaghan, Arvidson, Abrutyn & Lisowski in Livingston, confirms the settlement.

— By Charles Troutant