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**Med-Mal Case Yields Big Verdict –
\$392,000 for Damages Due to a Brain Abscess in Delaware County**
Reported in *The Legal Intelligencer* - Suburban

A Delaware County jury awarded \$392,000 to a 21-year-old paranoid schizophrenic who suffered a brain abscess as a result of untreated sinusitis.

The jury, handing down its verdict after two days of deliberations, found Dr. Celsus Ebba 30 percent liable and Dr. Eric Carlson 70 percent liable for the injuries to Robert Eckert. Judge James F. Proud dismissed a third defendant, Fitzgerald Mercy Hospital, at the end of the plaintiff's case. "Our position was that there was a lack of coordination in the way that Robert's care was rendered," said Eckert's lawyer, Martin Rubenstein of Levy Angstreich Finney Baldante Rubenstein & Coren in Philadelphia.

Eckert was admitted to Mercy Fitzgerald Hospital following a seizure on Dec. 30, 1993. According to Rubenstein, the emergency room staff attempted to rule out a central nervous system infection and conducted CAT scans, MRIs and a lumbar tap. The CAT scan revealed that Eckert had a progressive sinusitis, Rubenstein said.

Ebba, Eckert's attending physician, requested a consult by an ear, nose and throat specialist. Carlson, the specialist who responded to the request, verbally recommended another CAT scan and aggressive antibiotic therapy, Rubenstein said. But Carlson did not record his recommendations on Eckert's chart for several days, Rubenstein said, and Eckert remained "under-treated" for his condition. Ebba discharged Eckert for his condition eight days after his admission, without performing the additional CAT scan or administering the aggressive antibiotic treatment, Rubenstein said.

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Eckert's mother testified that on the drive home from the hospital, Eckert experienced another seizure, and they immediately returned to the hospital.

Carlson examined him again, and upon reviewing the earlier CAT scan, concluded that Eckert suffered from an extensive sinusitis, Rubenstein said. Eckert was admitted to the hospital again and treated aggressively by intravenous antibiotics, then discharged, Rubenstein said.

Eckert's mother testified that the following month, Eckert suffered another seizure. He was rushed to another where an MRI was performed, revealing a brain abscess. Eckert then underwent a craniotomy to drain the infected fluid located outside the brain and was discharged.

Dr. Marie Savard, an internist, testified at the trial that the failure of Ebba and Carlson to correlate the seizure and the progression of the sinusitis with a brain infection caused the abscess. She testified that had the defendants treated the sinusitis aggressively from the start, Eckert would not have needed the craniotomy.

Dr. John Ouligian, a psychiatrist, testified that the brain injury made it more difficult to treat Eckert's schizophrenia. As a result, Eckert needed three times the average dosage of Dilantin, an antiseizure medication, and of Clozaril, an antipsychotic, Ouligian said. Ouligian testified that the side effects of the drugs would seriously reduce Eckert's quality of life.

Eckert's mother testified that for two years prior to the incident, Eckert was doing well on a low dose of Clozaril and that she believed that he would be able to go to community college and eventually to hold a job. Until that time, Eckert did not hold a job and lived with his parents. Mrs. Eckert also testified that although her son was antisocial and paranoid prior to the incident, the symptoms were managed well by Clozaril. Now, she said, he is belligerent and loud, often having accusatory conversations with people who do not exist or with family members.

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John Riddell of Marshall Dennehy Warner Coleman & Goggin's Newtown Square office represented Carlson. Counsel for Ebba was Jim Sell of Kane Pugh Knoell & Driscoll in Norristown.

Neither Riddell nor Sell could be reached for comment. However, according to Rubenstein, the defense experts testified that the defendants performed the appropriate tests on Eckert when he was admitted to the hospital, and that they ordered adequate antibiotics for the diagnosis resulting from those tests.

They also testified that even if Carlson and Ebba had treated the sinusitis more aggressively from the start, Eckert still would suffer from seizures and would require his current dosage of medication, Rubenstein said.

Rubenstein said the fact that Eckert was a paranoid schizophrenic "posed a problem as to damages."

Rubenstein said he sensed the jury believed that Eckert would never have been able to live independently because of his prior psychiatric condition.

"I believe that the jury thought it was significant that Dr. Carlson didn't communicate to staff timely in his chart," he said. "The jury thought that was a real problem and that had he done so, the aggressive treatment of antibiotics would have made a difference in Robert's recovery."

But the jurors were not prepared to hold the defendants responsible for the future damages, he said.

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