

CALIFORNIA

LOS ANGELES COUNTY

MEDICAL MALPRACTICE

Negligent Treatment — Podiatrist

Plaintiff asserted podiatrist's arthrodesis was not necessary

VERDICT	Defense
CASE	Edward Hollander and Judy Hollander v. Edward H. Kim, D.P.M., and Jon B. Greenfield, M.D., No. BC370294
COURT	Superior Court of Los Angeles County, Central, CA
JUDGE	Michael Charles Solner
DATE	4/20/2010
PLAINTIFF ATTORNEY(S)	Howard D. Krepack, Gordon, Edelstein, Krepack, Grant, Felton & Goldstein, Los Angeles, CA
DEFENSE ATTORNEY(S)	Raymond L. Blessey, Taylor Blessey LLP, Los Angeles, CA

FACTS & ALLEGATIONS In April 2005, plaintiff Edward Hollander, 56, a pharmacist, underwent spine surgery due to persistent back pain and lower extremity weakness from a drop foot.

After the surgery, Hollander followed up with orthopedic surgeon Jon Greenfield. In June, Hollander presented to Greenfield with a swollen, painful and discolored right foot and was referred to podiatrist Edward H. Kim to evaluate and treat his foot problem. The initial imaging studies of the right foot and ankle revealed a fractured osteophyte of the talonavicular joint.

Hollander was then provided orthotics, but he did not improve with conservative treatment. On Aug. 30, the plaintiff demonstrated new onset weakness of the posterior tibialis muscle. An MRI of the right ankle revealed severe degenerative arthritis of the talonavicular joint, mild tenosynovitis of the posterior tibialis tendon, atrophy of the ankle muscles and a flat foot deformity, according to the radiologist.

Kim and Greenfield recommended surgery several times. The plan was for Hollander to undergo surgery to fuse the three joints of the rear foot with the goal being to provide a stable platform for weight bearing. On Sept. 30, a triple arthrodesis of the rear foot was performed by Kim.

Kim followed up with Hollander through April 4, 2006, with serial X-rays and clinic visits. Hollander reported difficulty with weight bearing due to pain. In March 2006, he reported pain in all three of the joints that were involved in Kim's surgery. The X-rays failed to show fusion.

Hollander ultimately left Kim's care for treatment by another podiatrist, Stephen Wan. A CT scan taken in May 2006 at Wan's request revealed nonfusion of all three joints and Hollander underwent a second, successful triple fusion by Wan.

Hollander sued Kim for medical malpractice, claiming that it was below the standard of care to recommend and perform a triple arthrodesis because Hollander did not have arthritic changes in all three joints of the rear foot. The plaintiff additionally sued Greenfield, who settled prior to trial for \$29,999.

Hollander contended that Kim's decision was based on an insufficient evaluation of the plaintiff's problems and

complaints as reflected in the content of his chart notes.

His counsel further asserted that it was Hollander's understanding that the failure of the back surgery to correct his drop foot problem meant it was unrelated to his spine and nerve problems.

The plaintiff podiatry expert opined that Kim failed to adequately place the compression screw and remove sufficient cartilage that had been lining the surfaces of the three joints to be fused.

Kim contended that the triple arthrodesis was a reasonable procedure for the plaintiff, considering the rapidly progressive nature of his foot problem, as demonstrated by his clinical course and serial MRI studies. The defense podiatry expert further claimed that the surgical technique and post-operative management were reasonable and well within the standard of practice.

INJURIES/DAMAGES *drop foot*

Hollander alleged right rear foot damage, claiming that he couldn't return to his occupation as a pharmacist due to his inability to stand and walk for extended periods of time.

He sought approximately \$85,000 in medical specials and unspecified damages for past and future lost wages, and pain and suffering.

His wife, plaintiff Judy Hollander, 50s, filed a claim for loss of consortium.

The defense podiatry expert testified that Hollander was not disabled by his rear foot problem.

RESULT The jury found for the defense.

DEMAND \$700,000 (Mr. Hollander); \$50,000 (Ms. Hollander)

OFFER Waiver of defense costs

INSURER(S) The Doctors Company for both defendants

TRIAL DETAILS Trial Length: 12 days
Trial Deliberations: 5 hours
Jury Vote: 9-3
Jury Composition: 9 male, 3 female

PLAINTIFF EXPERT(S) Tamara Hunt, Ph.D., economics, Santa Ana, CA
Gerald T. Kuwada, D.P.M., podiatry, Renton, WA
Stephen Wan, D.P.M., podiatry, Torrance, CA

DEFENSE EXPERT(S) James C. Wang, D.P.M., podiatry, Santa Monica, CA

EDITOR'S NOTE This report is based on information provided by defense counsel. Plaintiffs' counsel did not respond to the reporter's phone calls.

—Kristen V. Brown