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Jury Awards \$2.5M For Man Who Fell After Eye Exam

BY MAX MITCHELL
Of the Legal Staff

A Philadelphia jury has hit two medical organizations with a \$2.5 million verdict over a wheelchair-bound man who suffered a fatal fall after an eye care center released him on his own into the bright summer sun following an eye procedure that left his pupils dilated and his vision fuzzy.

The jury that presided over the case *Pratt v. Wills Eye Hospital* hit the Wills Eye Hospital and Jefferson University Hospital with the multimillion-dollar award Monday following a six-day trial before Philadelphia Court of Common Pleas Judge Frederica Massiah-Jackson. The verdict included \$1 million in wrongful death and \$1.5 million survival damages, and liability was allocated as 30% against Wills Eye Hospital and 70% against Jefferson University Hospital.

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New Phila. Bar Leader Stresses Building Off of Past Successes

BY MAX MITCHELL
Of the Legal Staff

The new chancellor of the Philadelphia Bar Association has an ambitious plan to build off the successes of previous administrators, and to launch several new programs to address a wide range of needs in the legal community, from increased diversity to attorney entrepreneurship.

Michael Snyder, a retired Philadelphia judge, laid out a lengthy plan for his tenure as Philadelphia Bar Association chancellor Thursday, saying he plans to either build off or establish a handful of new committees, panels and programs aimed at addressing issues such as access to justice, diversity and the growing mental health problems the legal profession is facing.

He takes over the position from Rochelle Fedullo, who, during her tenure, helped spearhead efforts that recently led to the Philadelphia City Council passing a bill



SNYDER

allowing free legal counsel for indigent litigants in landlord tenant court.

During his speech at the bar association's annual luncheon, Snyder, a longtime bar member who has held several leadership positions in the organization, built off the notion of 2020 being the year of clear sight, and stressed the need for members to look back on past efforts and to build off those wins and failures so the bar can successfully address the needs of the future.

"We are presented with the chance to see how this association and the practice of law will look in the future," he said. "We have a need to look backward and learn, and an opportunity to look forward, to dream and plan to achieve success."

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A New Jersey appeals panel upheld a ruling that a former employee who sued PSE&G in 2015 after being fired, but previously signed an arbitration agreement with the company in 2008, was compelled to move forward with arbitration rather than go to court.

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The U.S. Patent and Trademark Office cannot recover its attorney fees when it's taken to court over a decision to withhold a patent.

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Despite Juul's claims that its intention was to encourage adult cigarette smokers to switch to vaping as a "safer alternative," none of its earlier marketing material mentions any such claim, contributor Catelyn McDonough writes.

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In a recent case, the Third Circuit was left to resolve the familiar points of disagreement among CERCLA litigants.

Exam

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Plaintiff Willa Robinson, the eldest daughter of the deceased William Pratt, had argued that her father, a 75-year-old bilateral leg amputee, should not have been discharged on his own after an eye exam, and that this failure caused him to fall, face-first, down an exterior set of concrete steps while strapped to his wheelchair. William Pratt died two weeks after the fall.

Eisenberg, Rothweiler, Winkler, Eisenberg & Jeck attorneys Todd Schoenhaus and Joshua Schwartz, who represented the plaintiffs, said they were happy the verdict could provide some closure.

"Although no amount of money will bring their father back, Mr. Pratt's children were pleased that the jury held the hospitals accountable for his tragic loss," the attorneys said in an emailed statement.

Donna Nadel Kramer and Steven Medina of Post & Schell represented Wills Eye Hospital. James Young and Samantha Conway of Christie & Young represented Thomas Jefferson University Hospital.

Neither Kramer nor Young returned a message seeking comment.

According to the plaintiff's pretrial memo, Pratt had undergone similar eye exams in the months leading up to the July 2015 visit that resulted in his fatal fall. He came to the eye care center with complaints of right eye pain and sensitivity to light. The memo said the intake nurse did not assess his transportation needs, but he underwent the testing anyway, and was found to have a corneal abrasion and cataract in his right eye, as well as diabetic retinopathy in both eyes.

The tests included pharmacologically dilating his pupils, which can cause blurry vision and can last for longer than two hours.

According to the memo, he was discharged less than two hours after the dilation, and the discharge nurse did not confirm his travel arrangements, or contact any family or friends to help him return home. The nurse also did not offer him sunglasses, the memo said, noting that the sun was bright that day.

After he was found at the bottom of six cement steps near the facility, he was taken

to the emergency room at Jefferson, where he told his doctors he had blurry vision after he'd been discharged and had been blinded by the sunlight.

Pratt's expert ophthalmologist, Dr. Paul Glass, said it was the nurse's responsibility to make sure a patient's transportation needs are met, and that the intake nurse's treatment did not meet the standard of care. The plaintiff's internal medicine expert, Dr. Aaron Gottesman, opined that the doctors have the ultimate responsibility when it comes to the patient's safety, and both Pratt's treating doctor and the discharge nurse breached the standard of care. Gottesman also opined that Pratt died from side effects he suffered as a result of the brain and cervical cord injuries he sustained in the fall.

In its pretrial memo, Jefferson said its treatment was well within the standard of care. According to the memo, the hospital's ophthalmology expert, Dr. Dean Cestari, said the standard of care does not require facilities to delay a patient's discharge until the effects of pupil dilation have subsided, and that Pratt's treating ophthalmologist was not required to

provide sunglasses. The facility further said in the memo that Pratt had a history of these eye exams and was fully capable of determining whether he would be able to get home or not. The hospital also contended that the fact that his pupils were dilated did not increase the risk that he would be harmed on his way home.

Wills Eye Hospital, in its pretrial memo, denied the allegations, and offered testimony from Dr. Kara Cavuoto, an ophthalmologist, who also opined the treatment was within the standard of care. Specifically, she said Pratt should have been able to understand the discharge instructions, and that his failure to wear his prescription glasses or sunglasses caused the fall.

Pratt's attorneys, however, said that the July procedure entailed an ointment that had never before been applied to Pratt's eye, so he could not have known what to expect when he was discharged.

The jury deliberated for about three hours before returning the verdict, the attorneys said.

Max Mitchell can be contacted at 215-557-2354 or mmitchell@alm.com. Follow him on Twitter @MMitchellTLL. •