

PHRD Prevails On Behalf of Client Quest Diagnostics At Re-Trial And On Appeal In Case Alleging Nerve Damage From Routine Blood Draw

After reversing an initial Fulton County jury verdict in April 2012 in favor of Michael Bowbliss and his wife, Dee Anna Bowbliss, Parker, Hudson, Rainer & Dobbs LLP partners Ron Coleman and Jared Miller obtained a complete victory for client Quest Diagnostics in a in March 2014a re-trial of Michael Bowbliss's claims. The second jury rejected Bowbliss's assertion that he suffered a catastrophic permanent nerve injury during a routine blood draw and issued a complete defense verdict for Quest and its subsidiary, Quick-Med, which was affirmed on appeal.

Bowbliss's Allegations

During the first trial, Bowbliss alleged that a Quick-Med examiner inserted the needle in Bowbliss's right arm in a manner that caused pain, and a burning and tingling sensation from his forearm to his hand. Bowbliss also claimed that, although he allegedly expressed pain, the phlebotomist probed his arm and continued with the blood draw until she successfully drew a blood sample. Bowbliss, through his lawyer, also alleged that the Quick-Med phlebotomist had inserted the needle at a 45 degree angle, rather than an angle of 30 degrees or less. The phlebotomist denied these allegations. After seeing several doctors to treat his alleged condition, Bowbliss eventually found a doctor who diagnosed him with a chronic pain condition called Complex Regional Pain Syndrome (CRPS), allegedly as a result of nerve damage from the blood draw.

The First Trial & Bowbliss's Alleged Nerve Damage

During the first trial, the jury found in the Bowbliss's favor. Before the trial concluded, however, the trial court judge significantly reduced Bowbliss's award, striking damages awarded for a spinal cord stimulator and intrathecal pump as inappropriate, because the evidence presented at trial was speculative as to Bowbliss's alleged need for those devices.

New Evidence Refuting Bowbliss's CRPS Claim Comes To Light

Following the first trial, Quest Diagnostics and Quick-Med retained PHRD to challenge the jury's award as inappropriate and inconsistent with the evidence. In February 2013, the trial court agreed and vacated the entire damages award to both Bowblisses, finding that the damages awarded by the jury were unsupported, improperly speculative, and excessive. Dee Anna Bowbliss dismissed her claim, and during discovery for the new damages trial, Quest Diagnostics obtained new evidence that discredited Michael Bowbliss's claims of alleged pain and permanent nerve injury as a result of the blood draw. Based on the new evidence, which had not been considered by the jury in the first trial, Quest Diagnostics and Quick-Med moved to dismiss the case as a sanction for perpetrating a fraud on the court at the first trial, or, alternatively, for other significant sanctions. In August 2013, the trial court judge granted that motion and ordered a new trial on all issues, finding that the evidence presented by Bowbliss at the first trial "may have been misleading and prejudicial and inflated the total value of the jury's award." Shortly after the court's decision, Bowbliss dismissed his lawsuit and re-filed in another court with a different judge

The Re-Trial: The Jury Rejects Bowbliss's Venipuncture Injury Claim

In March 2014, with PHRD as lead counsel, the parties re-tried the case based on Quest's new evidence to a second Fulton County jury. After only a few hours of deliberation, the 12-person jury returned a unanimous verdict in favor of Quest Diagnostics and Quick-Med, awarding Bowbliss no damages (\$0) for his alleged venipuncture injury.

Bowbliss attempted to challenge the jury's verdict before the trial court and on appeal, but those challenges were rejected by the Courts. The Court of Appeals of Georgia officially ended the case in September 2015, when it affirmed the jury's verdict on appeal.

Similar Blood Draw Claims Have Failed In Other Courts

Quest Diagnostics also prevailed in a more recent venipuncture lawsuit In New York in February 2016. The plaintiff claimed that she was permanently injured from a blood draw conducted by a Quest phlebotomist and, like Bowbliss, suffered from CRPS. Following an 8-day trial before a Queens County, NY jury, the jury returned a verdict for Quest Diagnostics on all counts and awarded the plaintiff nothing. This verdict is further evidence that juries are skeptical of claims alleging nerve damage and injury arising from venipuncture, which is one of the most common medical procedures performed in the country. For more information on this case, see this article:

<http://www.nydailynews.com/new-york/woman-hot-work-loses-blood-drawing-lawsuit-article-1.2522009>