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Jury gives \$4.8M for clot death

By Lauraann Wood
Law Bulletin staff writer

A Cook County jury has awarded \$4.8 million to the family of a man who died from a pulmonary embolism one week after receiving tendon-repair surgery.

The jury's reduced verdict came earlier this month in plaintiff Ezra Morris' wrongful-death case. He sued Dr. Blair Rhode and Orland Park Orthopedics S.C. in 2014, alleging the physician should have recognized his morbidly obese 31-year-old son Ezra Q. Morris was at high risk of developing blood clots after the February 2013 procedure.

Rhode scheduled the surgery to repair a ruptured tendon in the younger Morris' right leg for the Monday after their Friday visit, said Joshua L. Weisberg, a partner at Rapoport Law Offices P.C. Weisberg represented the estate.

Rhode made no attempt between the two appointments to contact Morris' cardiologist to assess his physical condition, he said.

"[The cardiologist] was a witness in the case, and he said had he been contacted he would have said, 'This patient of mine is at extremely high risk of blood clots after surgery,'" Weisberg said.

When Morris arrived at MetroSouth Medical Center in Blue Island for the procedure, a hospital cardiologist conducted an anesthesia evaluation and recommended Morris receive the blood thinner Lovenox to prevent deep vein thrombosis — which occurs when a blood clot forms in one or more deep veins, usually in the legs.

Rhode contended he never knew about the cardiologist's notes, but that they wouldn't have changed his actions because Morris did not need a blood thinner.

"He admits that he did not check the cardiac clearance," Weisberg said. "He claims that he did not even know if there was a cardiac clearance. And he says that even if he knew that there was one and there was a recommendation for a blood thinner after surgery that he still would not have given the blood thinner."

Morris died one week later when part of a blood clot in his leg broke off.

"If it's large enough like it was in this case, then it gets lodged in the pulmonary arteries and it blocks the blood from coming from the heart to the lungs," Weisberg said. "This patient went into cardiac arrest, and his heart stopped."

In denying the lawsuit's allegations, the defendants also argued Morris did not follow instructions he received upon discharge from the hospital.

"They said he was supposed to move around after surgery but just stayed in bed and that's why he developed a blood clot," Weisberg said. "But the evidence showed he could not safely get out of bed after the surgery and should have been admitted to the hospital."

Pretzel & Stouffer Chtd. partners Brian T. Henry and Michael A. Barry, who represented the defendants, could not be reached for comment.

The parties did not mediate the case ahead of their eight-day trial before Circuit Judge Deborah M. Dooling.

Weisberg said he offered an opportunity to settle for Rhode's \$1 million insurance policy limits, but no offer was made until the defendants offered a high-low agreement ranging from \$100,000 to \$1 million moments before closing arguments.

"We do plan to pursue a bad-faith case against the doctor's insurer," he said.

Dooling granted a directed verdict to the hospital — which had also been named in the lawsuit — after the parties finished presenting evidence.

On May 10, a jury awarded Morris' estate \$3 million for predeath pain and suffering, \$2 million for loss of society and \$1 million for grief, sorrow and mental suffering.

But the jurors found Morris 20 percent liable in the incident, reducing his estate's total recovery to \$4.8 million. Weisberg said he did not learn how they reached that conclusion.

"It was a long road for Mr. Morris to obtain accountability for his son's death," Weisberg said. "I'm just grateful that at the end of the day, after hearing all the evidence, the jury provided that accountability."

The case is *Ezra Morris v. MetroSouth Medical Center, et al.*, 14 L 700.

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