

Chicago Daily Law Bulletin®

Volume 159, No. 124

Record verdict for elderly hand injury

Will County woman, 82, to get \$1.1M after carpal tunnel operation error

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A Will County jury awarded \$1.1 million to an 82-year-old woman who suffered complications from a carpal tunnel release surgery.

The verdict is the highest Will County hand-injury verdict or settlement reported for a plaintiff over age 60, said John L. Kirkton, editor of the Jury Verdict Reporter.

In July 2009, orthopedic surgeon David Burt performed endoscopic carpal tunnel release surgery on left-handed Virginia Faletti's right hand at a Naperville hospital.

The surgery is intended to relieve pressure on the median nerve of the wrist by cutting the ligament that forms the top of the carpal tunnel.

During the course of the surgery, Burt cut Faletti's median nerve, which caused pain, loss of sensation and loss of function in a portion of her hand.

Bradley N. Pollock — a partner at Walsh, Knippen, Pollock & Cetina Chtd. in Wheaton who represented

Faletti — said the median nerve is 5 to 8 millimeters in diameter.

"Generally, it has 30 fascicles, and he cut all but one of the fascicles," Pollock said. "The fascicles are the individual parts that make up the median nerve, like an electrical conduit with wires running in it and the fascicles are the wires."

After attempting physical therapy, Faletti underwent reconstructive nerve surgery in November 2009 to attempt to repair the damage.

The surgery was only partially successful, leaving her with permanent deficits.

"She still had significant pain, numbness and loss of function in the thumb, index, middle fingers and half of the ring finger," Pollock said.

Faletti sued Burt and his practice group, Midwest Sports Medicine Institute S.C., for medical malpractice.

Born on a farm in Reddick that she still lives on, Faletti testified to the effects that the injury has had and will continue to have on her life, Pollock said.

"Before the surgery, she had conditions that slowed her down, age-wise," Pollock said. "But this surgery really affected her ability to enjoy life and do things she had always done as part of farm life from the time that she was a little girl."

Faletti's plastic surgeon, a



Bradley N. Pollock

neurosurgeon and an orthopedic surgeon testified that Burt's conduct in cutting the nerve constituted medical malpractice, Pollock said.

Burt and a retained orthopedic surgeon expert both admitted during the course of the seven-day trial that Burt cut Faletti's median nerve but called the injury a complication that did not constitute professional negligence.

Burt and his practice group were found guilty of medical malpractice.

"The verdict was a reflection on our elder years and how important they are," Pollock said.

"And when you have an injury that causes constant and permanent pain, loss of



Adam C. Kruse

sensation and disfigurement — those are significant losses and the jury recognized that. And we believe justice was served for our deserving client."

Adam C. Kruse, an associate at Walsh, Knippen, Pollock & Cetina, also represented Faletti.

Patricia L. Argentati — a partner at Mulherin, Rehfeldt & Varchetto P.C. in Wheaton — represented Burt and Midwest Sports Medicine Institute. She could not be reached for comment.

Circuit Judge Susan T. O'Leary approved the verdict last week.

The case is *Virginia Faletti v. David Burt M.D. et al.*, No. 10 L 896.