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Plastic Surgery Sample Case

Augmentation mammoplasty (breast implant enlargement operation) under general anesthesia, resulting in severe nerve stretch injury to her arm and severe chronic pain.

The patient was age 25 and previously was a breast size "D" cup. But after her pregnancies, she lost breast substance, was a "B" cup, and wanted to return to her former size. After being informed of the standard risks, she underwent the saline-filled breast implant operation (augmentation mammoplasties). The incisions were beneath each breast and the Surgeon, Dr. #1, inserted two 350 cc (12 ounce) implants, one under each pectoral muscle using blunt dissection (ripping apart the muscle attachment to the chest wall) and also using the Bovie electrocautery.

Care must be used with the electrocautery to not injure the nerves (the brachial plexus) at the top of the pectoral muscle space in the axilla (armpit), which is slightly outside of the operative area. Also, a retractor is used to help hold up the flesh as the surgeon is separating (dissecting) those layers of flesh. Depending upon the amount of pulling force and type of retractor used, excessive (negligent) force can cause direct injury to the brachial plexus (the nerve root complexes from the spine that serves to originate the radial, ulnar and median nerves that innervate the entire arm and hand on each side.

Before the conclusion of this operation, Dr. #1 said, "…the pocket had been injected around its periphery with 10 cc (1/3 ounce) of 0.25% plain Marcaine (a local anesthetic)." Injecting too high up could negligently inject directly into part of the brachial plexus, destroying nerve fibers.

During the 2 hour and 35 minute anesthesia, she was lying flat with her arms outstretched on armboards. At the conclusion of the operation: "The patient was placed in the upright seated position, and symmetry was assessed."

Most likely, either while lying supine (flat on her back position) or while placed upright, her left arm hyper (over) extended beyond 90 degrees, causing a stretch (traction) injury to the brachial plexus on her left side. That is negligent care.

Was there a surgical assistant? None is noted in the record.

The procedure was done in their office according to the operative report and anesthesia record noting: Dr #1 Office Name. The anesthesia was given by a Certified Registered Nurse anesthetist #1. No M.D. anesthesiologist is listed. That places a higher burden of supervision on the surgeon.

She awakened from the general endotracheal anesthesia and went home.

On August 19, two days after surgery, Dr. #1 noted: "I am unsure why the patient is having so much trouble with her left arm, but it seems as if she has had a traction (stretch) injury to the brachial plexus." I agree. There were no physical abnormalities noted around the shoulder or axilla (armpit).

On August 25, six days after surgery, Dr. #1 noted: "The Patient shows signs of a traction injury to the brachial plexus, and I have reassured her that this should gradually resolve with time." Steroids were prescribed.

On September 9, she underwent EMG (electro-myogram) and NCV (nerve conduction velocity) studies (electrical tests for nerve injury). At three weeks, not all findings of degeneration show themselves as Dr. #2, a Neurologist Board Certified in Electrodiagnostic Medicine stated, but she found: "At least proximal radial versus posterior cord brachial plexus lesion, axon loss (nerve flesh destruction) type involving the radial component, moderately severe in degree electrically." Repeat studies were recommended in a few weeks.

Because of intractable, severe ("excruciating") pain, she was hospitalized from September 3 to September 13, and given narcotics to try to control this real pain. The MRI did not reveal any problem with her cervical (neck) spine or spinal cord. It did not evaluate her axilla (brachial plexus) area.

The neurologist, Dr. #3, noted that surgery "was performed in the seated position, arms abducted to 90 degrees (outstretched, as on a cross). The pain had increased and she was weak in her hand and arm for a few days prior to that hospitalization. And he noted with his physical examination: "++ (out of 4+) left axilla, easily palpable brachial plexus cord is very painful. Abduction of arm causes pain and paresthesias (tingling and numbness) down arm. No adenopathy (enlarged lymph nodes, which would be enlarged if there was a neuritis: nerve "inflammatory" condition) as the cause of this acute problem. His diagnosis was "inflammatory brachial plexitis." No where is any "allergic reaction" issue discussed.

On October 11, six weeks after surgery, Dr. #1 noted her severe disability: "She is unable to extend the wrist or finger," which is controlled by the radial nerve. The side of the upper back muscle, the latissimus dorsi muscle, was also tender.

Then on November 24, Dr. #1 wrote a "To Whom It May Concern" letter which says: "Soon thereafter she was evaluated by a neurologist and was found to have cryptogenic brachial plexus neuropathy (some kind of bizarre nerve damage). It was felt (by whom?) that she had an allergic reaction to medication given to her at the time of surgery, which brought on this progressive deterioration of function in the left arm." I disagree. And Dr. #1 wrote: "During this time (hospitalization of September 3 - September 12), the above-mentioned diagnosis was confirmed." Again, I disagree. A copy was sent to the patient and a two-year wait and see was noted. What is the statute of limitations in your state? Was this an attempt to delay until it passed?

On December 10, the office note of Dr. #1 says: "The patient continues to have no use of the left hand whatsoever and has significant muscular atrophy (shriveling up) of the left upper arm, left forearm and left hand." There was cyanosis (blue discoloration) noted and "She may be developing reflex sympathetic dystrophy in the hand." I agree. This is an unusual reaction of the sympathetic nervous system to any significant injury. It requires extensive sympathetic nerve ganglion nerve block injections to try to control and reverse its progression. That does not appear to have been done, and that would be negligent on the part of the Surgeon and the Neurologist.

On June 2 of the next year, Dr. #1 wrote to the Disability Board and again raised this bogus "allergic type reaction: and that "during that (previous September) admission that this diagnosis was reached." False!

On September 16, Dr. #1 noted this "allergic type reaction to one of the drugs given her at the time of her surgery which resulted in an inflammatory process in the brachial plexus." False. This letter refers to the repeat nerve conduction studies in December "and these revealed significant disruption to the let radial nerve and moderately severe damage to the left median nerve (also noted in the June letter, too). This is true. But it also says in that December 15 study: "Neuropathies, axon loss in type. There is no evidence of significant reinnervation at this time." Axon loss is from such a severe stretch (traction) that it ripped the nerve flesh, and so severe that it did not reconnect (reinnervation).

I am surprised that after the first EMG and NCV, the second study was not repeated in three weeks. I am also surprised that no MRI of her axilla and upper arm was ever performed. I am surprised that no one recommended neurosurgical exploration of that area to see what an operative repair of the nerve tissue could offer her. I am surprised that no one recommended anesthesia pain control services to control the extent of the developing reflex sympathetic dystrophy (RSD). All of these denials of care are negligent, and prevented her from any potential of better recovery.

I am shocked at what I see as falsifying of the record by Dr. #1 from a "traction injury" to an "allergic type of nerve damage."

Be advised that although the partner or associate of Dr. #1 is a "Diplomate, American Board of Plastic Surgery" and "Diplomate, American Board of Surgery," Dr. #1 is not a "Diplomate, American Board of Plastic Surgery." See their letterhead. Find out why Dr. #1 is not. Did that surgeon fail the Board examination or never take it? Find out the details of all the training Dr. #1 had, year by year, and then obtain all of that doctor's personnel and training files and records from all those institutions. Did the patient know that Dr. #1 was not a fully credentialed Plastic Surgeon?

Obtain all the training and past employment records of that Nurse Anesthetist (CRNA).

Who else assisted or was present in that operating room, at that time. Interview them and all employees, especially if they no longer work there.

In my opinion, Dr. #1, the CRNA and their practice, Dr.#1 Office Business Corporation, are all negligent for all the reasons stated above. And if through further discovery, my opinion on misrepresentation in the records is sustained, punitive damages are justified, especially if this was any attempt to allow the statute of limitations to pass.

Obtain professional photographs of the patient with both arms clearly seen from all views, as well as the operative area. Dr. #3 is negligent for not arranging for nerve block injections for her reflex sympathic dystrophy caused by the negligence of the Surgeon caused traction (stretch) injury.

There are severe emotional damages from her paralysis, disfigurement and chronic pain. She should be evaluated by a local Clinical Psychologist who has some courtroom experience to examine her, and conduct standard psychological tests such as the Minnesota Multi-Phasic Inventory (MMPI) to document for the jury in no uncertain terms, the extent of her depression and emotional and physical pain.

An Economist should evaluate her former earnings and with the aid of a professional in employability, note what she would have earned during her entire life, and what added expenses she will expend to function as normally as possible. A local Doctor in Physical Medicine and Disability may also be of assistance in that economic analysis.

I suggest you authorize us to obtain the services of Experts in the fields of Plastic Surgery, Neurosurgery, Neurology, Anesthesia (Pain Control) and Physical Medicine Rehabilitation to discuss the issues of negligence and causation upon which they could testify.