

JURY ISSUES COMPLETE DEFENSE VERDICT FOR QUEST DIAGNOSTICS AND QUICK-MED IN RETRIAL OF MICHAEL BOWBLISS VENIPUNCTURE NERVE INJURY CASE

Firm News
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Following an initial verdict in 2012 in favor of Plaintiff Michael Bowbliss, a Fulton County Jury in March 2014, based on new evidence, found in favor of the Defendants, Quest Diagnostics and Quick-Med, at a re-trial of Bowbliss's claims, issued a complete defense verdict, and awarded Michael Bowbliss and his wife, DeeAnna, \$0 for the alleged venipuncture nerve injury Michael Bowbliss claimed to have suffered as a result of a routine blood draw. The second jury's defense verdict was subsequently affirmed by both the trial court and on appeal.

Factual Background

In 2009, Bowbliss applied for a life insurance policy, which required him to provide a blood sample. An examiner came to Bowbliss's house and conducted an examination and blood draw. The examiner testified that the blood draw was routine and without incident. Bowbliss, however, claimed that he experienced pain upon insertion of the needle, and that, despite his alleged expression of pain, the examiner continued with the blood draw and allegedly adjusted the needle in his arm until she drew blood and successfully completed the blood draw. The examiner denied these allegations.

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Bowbliss claimed that he continued to experience significant pain in his arm, that he spent several months going to different doctors and specialists, and that he was eventually diagnosed with complex regional pain syndrome (CRPS), a chronic pain condition.

Bowbliss vs. Quest Diagnostics/Quick-Med – The First Trial

Bowbliss initially filed a negligence claim against Quest Diagnostics and Quick-Med in Fulton County State Court in March 2010. Bowbliss's then wife, Dee Anna Bowbliss, filed a loss of consortium claim due to her alleged loss of companionship as a result of her husband's alleged nerve injury.

At the first trial, the jury found in the Bowblisses' favor. Before the trial concluded, however, Judge Porter, the trial court judge, reduced the Bowbliss's award significantly, based on the speculative nature of the evidence presented.

The First Verdict Is Thrown Out

Following the trial, Quest Diagnostics and Quick-Med challenged the jury's awards as inappropriate and inconsistent with the evidence. In February 2013, the trial court judge agreed and vacated the entire damages award to both Bowblisses, finding the jury's damages awards were unsupported by the evidence, improperly speculative, and excessive. Shortly after this ruling, Dee Anna Bowbliss dismissed her loss of consortium claim with prejudice, meaning she was barred from re-filing it.

New Evidence Discovered Refuting Bowbliss's Claims

During discovery for the new damages trial, Quest Diagnostics and Quick-Med obtained new evidence calling into question evidence the Bowblisses presented at the first trial, including the extent of Michael Bowbliss's alleged pain and disability as well as the state of the Bowbliss's marriage.

Based on this new evidence, which the first jury had not been able to consider, Quest Diagnostics and Quick-Med moved to dismiss the entire case as a sanction for perpetrating a fraud on the court at the first trial, or, in the alternative, for other significant sanctions. In August 2013, the trial court judge granted that motion, finding that the Bowbliss's evidence at the first trial "may have been misleading and prejudicial and inflated the total value of the jury's award." As a sanction, the trial court vacated the first jury's liability verdict and granted the defense a new trial on all claims. Shortly thereafter,

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Bowbliss voluntarily dismissed his lawsuit, electing instead to re-file in another court to try again with a different judge.

The Re-Trial And Verdict in Favor of Quest Diagnostics/Quick-Med

In March 2014, the parties re-tried the case to a 12-person Fulton County jury. After deliberating for only a few hours, the jury issued a unanimous and complete verdict in favor of Quest Diagnostics and Quick-Med, awarding Bowbliss \$0.

Bowbliss tried to challenge the jury's defense verdict in both the trial court and on appeal, but those challenges were all rejected. In September 2015, the Court of Appeals of Georgia affirmed the jury's defense verdict, officially ending the case.

Similar Venipuncture Nerve Injury 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:

Daily News Article

Quest Announcing Verdict

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