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EMERGENCY ROOM NEGLIGENCE CASES

ALABAMA

Jeremy L. Freeman. Twenty-seven-year-old Jeremy Freeman, who had a history of cerebral palsy, suffered a fall in 2005 that caused him to injure the back of his head. When he went to the emergency room, he was discharged after being diagnosed with a mild concussion. However, after the ER visit, Jeremy's neurological functions started to decline and he eventually returned to the ER. On the second visit, he complained of neck pain and hand numbness. The doctor did not perform any tests that would rule out possible cervical spine injury from his fall. Instead, Jeremy was diagnosed with "clutch palsy," which is numbness in the hand because of using crutches incorrectly. Two months later, Jeremy was found in his bed in his own feces and was unable to move his legs. Jeremy finally received an MRI, which showed a massive cervical disc herniation with spinal cord impingement. Though he underwent surgery to try to correct the problem, it had become permanent. Jeremy is now confined to a wheelchair. Jeremy's mother was able to secure a \$3.5 million verdict to help pay for the constant care he will need.¹

ILLINOIS

Ramona Sue Yates. In 2007, after gastric bypass surgery, 47-year-old Ramona Sue Yates went to the emergency room complaining of back and abdominal pain. Bowel obstruction is a common complication after such surgery. Ramona presented symptoms consistent with this diagnosis. However, the ER doctor did not run any additional tests that would help diagnose a bowel obstruction, so it went undiagnosed. Ramona died the next day. The court found the doctor liable and awarded Ramona's family \$2 million.²

¹ *Freeman v. Lovely*, 2013 Nat. Jury Verdict Review LEXIS 44 (CV-2007-000134, March 22, 2013).

² *Yates v. Legatus Emergency Services, LLC*, 2013 Nat. Jury Verdict Review LEXIS 373 (09-L-36, November 28, 2013).

OHIO

David Hedger. Twenty-seven-year-old David Hedger suffered from Idiopathic thrombocytopenic purpura (ITP), which can cause bruising and fatigue as well as prolonged, excessive bleeding in different parts of the body. In order to manage the disease, Jeremy had his spleen removed, which made him more susceptible to an infection. One day he began to feel sick and went to the ER; he had a 103 temperature along with other signs of an infection. The doctor consulted with an oncologist/hematologist over the phone and diagnosed David with the flu. The oncologist told the doctor that antibiotics were unnecessary and David was discharged. David's condition became increasingly worse overnight, so he went to another ER the next morning. David ultimately died from a severe infection. In 2009, David's estate received a \$750,000 judgment.³

MICHIGAN

Anonymous Patient. In 2006, the 41-year-old patient went to the hospital with complaints that, after testing, resulted in a diagnosis of Spinal Epidural Abscess (SEA), which requires quick treatment. The ER doctors who made the diagnosis ordered an MRI. The patient was suffering from extreme spinal pain and laying still for the MRI was unsuccessful. The following day, another MRI was attempted and failed for the same reason. Another day passed and the doctor ordered a nurse to check urine retention and perform neuro-checks on the patient every four hours. The nurse did not perform the neuro-checks, and even though the nurse did check urine retention, she did not tell a doctor when the check was not normal. The doctor was also not told when the patient felt numbness in his legs. Finally, after yet another day passed, a doctor was made aware of the patient's new symptoms. Another MRI was ordered and showed that the SEA had caused spinal compression, which required emergency surgery. Despite the surgery, permanent damage was done – the patient is now quadriplegic. The patient received a pretrial settlement of over \$3 million that will help pay for his future care.⁴

Anonymous Patient. A 12-year-old boy went to the hospital because he was lethargic and disoriented. The ER doctor ordered a lumbar puncture suspecting meningitis. During the procedure, the boy died instantaneously from brain herniation. He had suffered a subdural empyema, which is an accumulation of pus or abscess on the brain. Patients who suffer from empyema should not receive a lumbar puncture. Because of the boy's symptoms, doctors should have performed a CT scan that would have ruled out other potential causes, revealed the empyema and alerted doctors not to perform the puncture. The case settled in 2010 before trial.⁵

Anonymous Patient. In 2007, the victim went to the emergency room with bleeding in his brain from an aneurysm. Doctors attempted to fix the bleed in the least invasive manner – a cerebral angiogram with possible coiling. A neurosurgeon was on standby in case a craniotomy was necessary. During the angiogram, the aneurysm ruptured and the patient was moved to the operating room. The aneurysm needing surgery was on the left side of the patient's brain but the

³ *Hedger v. Collins*, 2011 Jury Verdicts LEXIS 204795 (A1002841, November 9, 2011).

⁴ *Anonymous Patient v. Anonymous Hospital and Anonymous Physicians*, 2011 Jury Verdicts LEXIS 204667 (May 16, 2011).

⁵ *Anonymous 12-Year-Old Male v. Anonymous Hospital*, 2010 Jury Verdicts LEXIS 34925 (May 1, 2010).

doctor first performed it on the right side. He only became aware of his error after confirming the location once he had already started the procedure. He closed the right side and then began to work on the proper side. The patient sustained permanent brain injury, which ultimately led to her death. The hospital settled the case for \$1.3 million but would have been less likely to do so if Michigan had a gross negligence standard in place. Moreover, if the case had gone to trial under a gross negligence standard, it is unlikely that the victim's survivors would be successful against the doctors and hospital.⁶

NEW HAMPSHIRE

Noel Jodoin. In 2007, thirty-year-old Noel Jodoin began experiencing persistent headaches for a number of days. When she went to the ER, they diagnosed her with a complex migraine and attempted to discharge her. However, before discharge she experienced the new symptoms of numbness and slurred speech. The ER doctors ordered a CT scan but the radiologist said it was normal. The hospital then made preparations for Noel to be transported to another hospital for further testing; during that process, Noel had a grand mal seizure and was diagnosed with a brain hemorrhage. The radiologist's mistake left Noel with serious neurological injuries, including impaired use of her right arm and hand as well as continued seizures, which require daily medication. Noel won a \$5 million verdict.⁷

SOUTH CAROLINA

Kelly Fay. In 2002, thirty-year-old Kelly Fay went to the ER complaining of severe pain in her stomach and back. She waited four hours to be seen by a doctor. When she was finally examined, the doctor sent her home with pain medicine for kidney stones and told her to make an appointment in a few days. This treatment deviated from nationally recognized standards of care. Kelly ultimately had a seizure, went into septic shock and died. Her husband obtained a \$3 million verdict.⁸

TENNESSEE

Jonathon Reynolds. Twelve-year-old Jonathon Reynolds severely lacerated his knee falling on a nail head. He was taken to the ER, where a nurse sutured his knee. A few days later, he went back to the hospital and was diagnosed with necrotizing fasciitis, a.k.a. the "flesh-eating virus," which can develop from bacteria. The nurse who sutured Jonathon's knee had failed to properly clean the wound and had sutured it too tightly. He was forced to undergo several operations and ultimately developed seizures, sepsis and high fevers that led to brain damage. In 2012, a court found in favor of the family.⁹

⁶ *Anonymous Patient v. Anonymous Hospital*, 2011 Jury Verdicts LEXIS 204690 (June 3, 2011).

⁷ *Jodoin v. Johnson*, 2012 NH Jury Verdicts Review LEXIS 17; (2010-CV-670, Nov. 15, 2012).

⁸ *Fay v. Grand Strand Regional Medical Center*, 2010 Jury Verdicts LEXIS 33970 (2008CP2609047, May 28, 2010).

⁹ *Reynolds v. Criswell*, 2012 Jury Verdicts LEXIS 21612 (04-142 – August 3, 2012).