



Evans v. Rockdale Hospital (Ga. S. Ct.)

Topics Covered: Professional Liability

Issue

The issue in this case is whether, in a case in which the jury's award of damages was inadequate, a retrial would be needed on both liability and damages or whether the case could be retried on the issue of damages alone.

AMA Interest

The AMA supports efforts to curb abusive lawsuits against physicians.

Case Summary

Janice Evans woke one night with a terrible headache. In addition to the headache, she also experienced intermittent episodes of vomiting and diarrhea. She presented at the Rockdale Hospital emergency room and was examined by the nursing staff and a physician. She was discharged from the hospital the next day with instructions to return if her condition worsened. Her condition did worsen, and it was later determined that she had suffered multiple strokes. Janice was left totally and permanently disabled, with cognitive and other impairments.

Janice (through her guardian) and her husband sued the hospital, its nursing staff, and the examining physician for medical malpractice and loss of consortium. At trial, the defendants argued that Janice was primarily at fault because she was aware of her long standing and uncontrolled hypertension and did not adequately seek treatment to manage the condition.

After a trial, the jury found the defendants 51 percent at fault and Janice 49 percent at fault. The jury awarded Janice \$1,196,288.97 for past medical damages and awarded her husband \$67,555 for loss of consortium. The jury awarded zero damages for Janice's pain and suffering, future medical expenses, and lost wages.

The plaintiffs moved for additur (a court mandated increase in damages) or for a new trial on the grounds that the jury verdict was inadequate and inconsistent with the evidence. The claimed inadequacy was the failure to award damages for pain and suffering, for future medical expenses, or lost wages. The trial court refused to increase the damages, and it refused to order a new trial. It reduced the verdict because of Janice's comparative negligence and entered judgment accordingly.

The plaintiffs appealed to the Georgia Court of Appeals.

The Court of Appeals found that the jury award "shocked the conscience" when it did not award damages for Janice's pain and suffering. It then determined, based on a series of Georgia Supreme Court cases, that it could not allow a retrial on damages only. This case involved comparative negligence, and this factor inextricably linked the calculation of damage to liability. The case would therefore be retried to determine liability as well as damages.

The plaintiffs have now appealed to the Georgia Supreme Court, claiming they are entitled to a new trial that would be limited to the issue of damages.

Litigation Center Involvement

The Litigation Center, along with the Medical Association of Georgia, filed an amicus brief in support of the defendants. The brief argued that the jury had probably reached a “compromise verdict,” and it would prejudice the hospital if the issue of damages were retried without a retrial of liability.

Supreme Court of Georgia brief