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Date/Time of Request:	Friday, September 11, 2009 10:44 Central
Client Identifier:	FFRENCH
Database:	NYLJ
Citation Text:	8/31/2009 NYLJ 5, (col. 1)
Lines:	95
Documents:	1
Images:	0

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New York Law Journal
Volume 242
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Monday, August 31, 2009

Verdicts & Settlements

MEDICAL MALPRACTICE

Doctor Overlooked Symptoms of Spinal Tumor

Verdict: \$47.95 million; Actual: \$27.3 million

Ffrench v. Montefiore Medical Center, 14401/02

Court: Westchester Supreme, Justice Nicholas Colabella, July 20, 2009

Plaintiff Attorneys: Christopher B. Meagher of Meagher & Meagher in White Plains; Merryl F. Weiner of Quaranta & Associates in Mount Kisco

Defense Attorney: Christopher A. Terzian of Bartlett McDonough Bastone & Monaghan in White Plains (Keith S. Edwards)

Facts & Allegations: On Feb. 3, 2000, plaintiff **Shania-Gay Ffrench**, a 21-year-old unemployed woman, presented to Mount Vernon Hospital. She reported suffering pain in her back that radiated to her legs. She also reported she was suffering headaches and weight loss. Doctors suspected the symptoms were a product of uterine fibroids. She was told she would have to be re-examined by her primary physician and an obstetrician/gynecologist.

On Feb. 8, 2000, **Ffrench** was examined by her primary physician, Dr. Keith Edwards, who issued a referral to an orthopedist, Dr. Shariar Sotudeh, who suspected **Ffrench** was suffering scoliosis. **Ffrench** was referred to a specialist, but because her insurer would not reimburse the evaluation cost, she did not pursue the referral.

On March 2, 2000, Dr. Guirlaine Agnant, an ob/gyn, performed lysis of adhesions. However, the procedure did not resolve the pain. During the next two months, Agnant performed several post-op exams and Edwards performed two re-examinations.

In January 2001, **Ffrench** selected a new primary physician, Dr. Gary Guerrino, who recommended a neurological evaluation. She also sought the evaluation of a chiropractor, Dr. Craig Bauer. In July 2001, an MRI revealed that **Ffrench's** pain was a

product of a spinal tumor: an intramedullary astrocytoma. The tumor could not be removed until 2007, and **Ffrench** suffers residual deficits of her legs' motor skills and sensory ability. She claimed the tumor should have been diagnosed in 2000, and she contended that prompt treatment would have prevented her residual injuries.

Ffrench sued Edwards; Mount Vernon Hospital; Agnant; Agnant's professional affiliate, Mount Vernon OB/GYN Associates; Guerrino; Bauer; a neurologist who was involved in her treatment, Dr. Stephen Onesti; and a hospital that was involved in her treatment, Montefiore Medical Center. **Ffrench** alleged that Agnant, Bauer, Edwards, Guerrino, Onesti and Mount Vernon Hospital's staff failed to properly address her condition, that their failures constituted malpractice, that Mount Vernon OB/GYN Associates was vicariously liable for Agnant's actions, and that Montefiore Medical Center was vicariously liable for Onesti's actions.

Montefiore Medical Center and Onesti were released via summary judgment. **Ffrench** and Bauer negotiated a pretrial settlement. Terms were not disclosed. The matter proceeded to a trial against the remaining defendants. However, during the trial, **Ffrench**, Agnant, Guerrino, Mount Vernon Hospital and Mount Vernon OB/GYN Associates negotiated settlements. Terms were not disclosed. Thus, the trial proceeded against Edwards.

Ffrench's counsel claimed the initial symptoms should have prompted an immediate MRI. They also claimed Edwards should have issued a referral to a neurologist, and that he did not properly document and address **Ffrench's** ensuing complaints.

Defense counsel contended **Ffrench** did not disclose any symptoms that would have necessitated performance of an MRI or a neurological evaluation. He noted that Edwards issued a referral to Sotudeh, who was not able to diagnose **Ffrench's** condition.

Injuries/Damages: Because **Ffrench** suffers impairment of her legs' motor skills and sensory ability, she must undergo extensive physical therapy and rehabilitation. She also wears leg braces, but because of her limited ambulatory ability, she is largely confined to a wheelchair.

Result: The jury found that Edwards departed from accepted standards of medical care, but it also determined that other parties shared liability for **Ffrench's** injuries. Edwards was assigned 30 percent liability; Mount Vernon Hospital was assigned 25 percent; Agnant was assigned 15 percent; Guerrino was assigned 10 percent; Mount Vernon OB/GYN Associates was assigned 10 percent; and Sotudeh, who was not a party to the suit, was assigned 10 percent.

The jury determined that **Ffrench's** damages totaled \$47.95 million, but **Ffrench** will recover the share for which Edwards is liable: 100 percent of economic dam-

ages and 30 percent of noneconomic damages. As a result, **Ffrench's** recovery totaled \$27.3 million (\$16 million, future medical cost; \$4.5 million, past pain and suffering; \$25 million, future pain and suffering; \$100,000, cost of past rehabilitation services; \$2 million, cost of future rehabilitation services).

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