

Jury Find in Favor of Pediatrician in Case Involving Adolescent Idiopathic Scoliosis Leading to Spinal Fusion

On October 10, 2018, **Clark Hudson** [1] obtained a unanimous defense verdict on behalf of a San Diego pediatrician. The case involved a 19-year-old female who required a T8-L3 spinal fusion as a result of scoliosis. The patient alleged the defendant physician failed to adequately screen for adolescent idiopathic scoliosis, which required her to undergo extensive surgery. The plaintiff claimed that with proper screening, her condition could have been diagnosed earlier, affording an opportunity to undergo spinal bracing - and avoid the extensive surgery.

The defendant physician first began following the patient's care in October 2011. At that time the patient was 12 years old, and did not have any appreciable spinal deformity. The patient was then followed yearly, and received screening for scoliosis.

In February 2012 the patient was part of a school screening program, which prompted the school nurse to advise the patient's parents that more thorough screening was indicated. The parents maintained the report of the school screening was passed along to the defendant physician. However, the defendant physician denied ever receiving the information from the patient's parents, and there was no record of the parents reporting the information to the doctor's office. The patient was next seen in October 2012. The doctor's records were again silent on any school screening. Additionally, the screening performed by the pediatrician did show some angle of trunk rotation in the spine, but not to a level that would require referral to an orthopedist.

The patient was seen for intermittent colds and flu symptoms in early 2013. During none of the visits were any complaints consistent with a spinal deformity made. However, during the patient's physical in October 2013, the angle of her spinal rotation was such that an immediate referral to an orthopedic surgeon was made. The patient was 14 years of age. Although surgery was not indicated at the time, the patient was not a candidate for spinal bracing due to her spinal maturity – which was advanced for her age. The patient's scoliosis continued to progress despite having reached spinal maturity. In July 2016 the patient underwent T8-L3 spinal fusion to correct scoliosis deformity. The patient asked the jury for damages associated with the spinal fusion, and likely future medical care.

Following a six day trial, a San Diego jury returned unanimous defense verdict on behalf of the defendant physician - rejecting the plaintiff's claims of malpractice.

Clark R. Hudson [1] *is a shareholder at Neil Dymott and concentrates his practice on the defense of healthcare professionals and civil litigation. Mr. Hudson may be reached at (619) 238-1712 or chudson@neildymott.com.* [2]

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