

Statement of the Case

This case is a medical-malpractice action [1] related to care received at Louisiana General Hospital by David Smith.[2] David was two years old when his parents sought care in May 2002 for his broken right arm. After going through the medical-review-panel process,[3] David's parents filed suit in 2007, naming as defendants Louisiana General Hospital, Dr. Robert Jones, Dr. Gregory Green, Dr. William Adams, Dr. James Pope, and Gotham City Hospital, located in Michigan. Dr. Pope was a third-year resident employed by Gotham City Hospital who, in May 2002, was working a three-month rotation in orthopedic surgery at Louisiana General Hospital. By amended petitions, the Smiths added as defendants the Board of Supervisors of LSU (employer of Drs. Jones, Green, and Adams) and Gotham City Hospital as the alleged insurer of Dr. Pope.

[4] Before trial, Louisiana General Hospital was dismissed by summary judgment, and the Smiths settled with LSU and Drs. Jones, Green, and Adams. The Smiths went to trial against Dr. Pope and Gotham City Hospital, who, because they were domiciled in Michigan, had not filed the necessary papers in Louisiana to qualify for the \$500,000 medical-malpractice damages cap. *See* La. R.S. 40:1231.2(B).

[5] At trial, the same evidence used to argue Dr. Pope's fault applied equally to Dr. Green. The allegation against Dr. Pope was that he misinterpreted an x-ray taken after a cast was placed on David's arm, failing to see that a part of the cast could be impinging blood flow. Less than 24 hours after being treated by Dr. Pope, David's parents returned to the same emergency room at Louisiana General Hospital, where David was treated by

1. General area of law

2. Who are the parties (this paragraph and the next)

3. Where has the case been?

4. Relevant procedural history

5. Overview of facts (details are in the statement of facts)

Sample statement of the case for brief in La. Court of Appeal

Dr. Green. It was undisputed that Dr. Green assessed the same cast placed by Dr. Pope, that Dr. Green looked at the same post-casting x-rays as Dr. Pope, and that Dr. Green interpreted the x-rays the same way as Dr. Pope. Even though David was, at this point, suffering from excessive swelling and discoloration of his fingers, Dr. Green discharged David without splitting the cast. Because Dr. Green did nothing whatsoever to address David's condition, David suffered permanent damage to muscles and nerves in his forearm, leading to a diagnosis of Volkmann's contracture. In closing arguments, plaintiffs' counsel acknowledged the fault of settling defendant Dr. Green and suggested a 20% fault allocation to him.

Despite this undisputed evidence and the Smiths' suggested fault allocation, the jury [6] allocated no fault to Dr. Green, instead allocating 100% fault to Dr. Pope.[7] And although David makes no claim for future medical treatment, lost wages, loss of earning capacity, or any other special damages, the jury awarded general damages totaling \$10 million.[8]

Dr. Pope and Gotham City Hospital moved for new trial,[9] arguing that at least some fault must be assigned to Dr. Green and that the \$10 million award for general damages is excessive.[10] The trial court summarily denied their motion for new trial. Dr. Pope and Gotham City Hospital have appealed.[11]

6. How case was resolved (by jury verdict)

7. Error # 1

8. Error # 2

9. Additional relevant procedural history

10. Restatement of errors

11. Who appealed