

Delay in Care Renders Man a Paraplegic

At age 25, Terry Doe was physically active and in extremely good health. An impressive athlete, Mr. Doe, though only 5'8" tall, could dunk a basketball at regulation height.

Despite his general state of good health, Mr. Doe began experiencing lower back pain in early 1993, and complained of these symptoms to his primary care physician, Doctor A. He also sought the care and treatment of Doctor K, a chiropractor. For two years, he continued to advise his doctors of the pain, as well as of other symptoms, including shaking hands and pain in his left leg. Doctor K eventually suggested that Mr. Doe undergo diagnostic testing, but Doctor A refused to authorize it.

In May 1995, Mr. Doe's neurological deficits had become so significant that an MRI was finally authorized, along with a comprehensive orthopedic consultation. Mr. Doe was discovered to have an extensive intradural-extramedullary neuroma of adipose tissue throughout his thoracic spine. In essence, a fatty tumor had wrapped itself around his spinal cord. This type of tumor, at this advanced stage, is crippling.

In June 1995, Mr. Doe underwent surgery to remove the tumor, rendering him a virtual paraplegic. Having very limited ability to ambulate, he now predominantly uses a wheelchair to get around. Mr. Doe's physical limitations have had a profound effect on his ability to interact with his son and to assist with day-to-day child care responsibilities. Mr. Doe, who was once so physically fit, can now only

watch from his chair as his son rides his bicycle or plays basketball.

Mr. Doe was referred by attorney Michael Reda in Titusville, Fla., to attorneys Chris Searcy, Earl Denney and David Sales. Suit was filed against Doctor A, Doctor K, and Mr. Doe's HMO insurance company. Pursuing claims against HMO's can be extremely difficult, if not impossible, due to protection afforded under a federal law called ERISA (Employee Retirement Income Security Act). Nevertheless, it was demonstrated that Doctor A was acting as an agent, servant, and employee of the HMO, thereby making the HMO responsible for Doctor A's negligence.

They testified that the tumor could have been surgically treated, without paralysis, if doctors had acted promptly.

Experts for the defendants claimed that the earlier removal of Mr. Doe's tumor would not have changed his outcome. Experts hired by the plaintiff strongly disagreed, opining that the two year delay was inexcusable. They testified that the tumor could have been surgically treated, without paralysis, if Doctors A and K had acted promptly in response to Mr. Doe's symptoms and conducted necessary testing.

Mr. Doe's case settled for \$1.725 million. ■