



(l-r) Margaret and Steven Rosenberg, with attorneys Karen Terry and Matt Schwencke.

\$2.4 million verdict for extensive injuries caused by botched colorectal surgery

In June 2018, Steven Rosenberg, a financial planner in his 60s, sought treatment from Palm Beach Urology Associates in West Palm Beach, Florida, for urinary retention. He was assigned to urologist, Frederick Muhletaler-Maggiolo, who prescribed a robotic simple prostatectomy. A simple prostatectomy involves removing an adenoma, a portion of a benign enlarged prostate. During the procedure, the doctor accidentally tore Mr. Rosenberg’s rectum. The doctor repaired the tear himself and completed the surgery. The doctor acknowledged tearing the rectum during the surgery.

Shortly after the procedure, Mr. Rosenberg noticed urine coming out of his anus and feces from his penis. Concerned about these symptoms, Mr. Rosenberg called the doctor’s office several times but received no response to his calls. At a scheduled follow-up appointment about a week later, Mr. and

Mrs. Rosenberg described to the doctor his symptoms and the doctor replied that those symptoms were impossible. The doctor briefly looked at the incisions, removed the catheter, and sent Mr. Rosenberg home. Later during trial, the doctor denied that Mr. and Mrs. Rosenberg had told him about his symptoms as they were not documented in his medical chart. However, the evidence showed that the entire appointment only took four minutes.

Once Mr. Rosenberg finally came to the realization that his urologist was not going to help him, he turned to his brother-in-law who, fortuitously, was a retired colorectal surgeon. His brother-in-law immediately knew that Mr. Rosenberg had a rectourethral fistula and proceeded to have him evaluated at Cleveland Clinic by one of the best colorectal surgeons in reparative surgeries in the United States. *(Continued on page four.)*

IN THIS ISSUE:

**Mass Tort Lawsuits:
Ethicon & Covidien
Surgical Staplers
and
Paraquat
Herbicide**
PAGES TEN AND ELEVEN

**Sia Baker-Barnes
honored with
ADL Jurisprudence
Award and
Judge
Edward Rodgers
Diversity Award**
PAGE TWO

**20 Searcy Denney
attorneys listed in
The Best Lawyers
in America
for 2021**
PAGE SIX

School district held accountable for choking death of autistic student

Settlement: \$2 million and mandatory training program



In 2019, Kedar Williams was a 19-year-old student attending William T. Dwyer High School in West Palm Beach, Florida. An autistic teenager, Kedar was well known in the Palm Beach County School District having spent nearly all of his educational years in its schools. Kedar’s mother, Megan Williams, met with school teachers, aides, and the principal every year to inform them of Kedar’s medical and behavioral condition, to make them aware of his needs, and to ensure his needs would be provided. Each year, they developed Kedar’s Individual Education Plan (IEP) and included the year’s goals. It was written and signed by all of the parties.

In 2015, Kedar was at home eating dinner when he began severely choking on food and had to be rushed *(Continued on page five.)*

Kedar Williams

\$2.4 million verdict for injuries caused by botched colorectal surgery (Continued from page one.)

In August, Mr. Rosenberg underwent a laparoscopic adhesiolysis loop ileostomy construction. In October, he underwent a second incredibly painful surgery which included a trans-anal repair of the fistula, a trans-perineal repair of the urethra, and a left gracilis interposition. The colorectal surgeon rebuilt the area between his scrotum and his anus so that the two were separated from one another. In December, Mr. Rosenberg endured a reversal of the loop ileostomy as well as a small bowel resection and enteroenterostomy. He subsequently developed a hernia as a result which required surgical repair in May 2019.

In and out of medical procedures and post-surgery difficulties for months, Mr. Rosenberg continues to suffer from stress incontinence and erectile dysfunction. Through all of the suffering and facing a future with more pain and difficulties, Mr. Rosenberg and his wife, Margaret, concluded that Dr. Muhletaler-Maggiolo had been negligent in his repair of the rectal tear, and that the negligence constituted malpractice. Seeking support for his concerns, Mr. Rosenberg and his wife contacted Searcy Denney attorney **Karen Terry**. Following a review of the medical procedures, Mrs. Terry brought a law suit against the doctor and the doctor’s practices, 21st Century Oncology, Inc., and Palm Beach Urology Associates, P.A. A derivative claim was also filed on behalf of Mrs. Rosenberg. At trial, plaintiffs’ counsel Karen Terry and **Matthew Schwencke** argued that once the doctor tore the rectum, he should have sought help from a colorectal

or general surgeon since he had little to no experience in repairing rectums. Instead, the doctor repaired the torn rectum improperly thereby causing injury to Mr. Rosenberg. Counsel further argued that the doctor failed to properly visualize the rectum during the repair and failed to utilize omentum (a piece of abdominal fat that can serve as a buffer between organs).

Defense counsel argued that the fistula was an acceptable complication of the prostatectomy and not the result of negligence. The defense hired a top-notch urologic surgeon who started the robotics program at Duke University. He testified that the rectal injury was not below the standard of acceptable care. Yet, he had performed 1,600 robotic procedures and never injured a rectum in a simple robotic prostatectomy in his entire career. In fact, none of the experts on either side in the case had ever seen or heard of a rectal injury occurring in the robotic simple prostatectomy although they had heard of it occurring in a robotic radical prostatectomy.

The case was tried before a six-person jury in April 2021 at the Palm Beach County Circuit Court. The jury found that the urologist was in fact negligent in causing the rectal injury and in repairing it without asking for help from a colorectal or general surgeon. Plaintiff’s counsel made the strategic decision not to ask the jury to award past or future medical expenses because the law recently changed on the eve of trial for Medicare recipients such that they are only entitled to claim the amount of the lien as opposed to the amount of the gross medical expenses. The jury awarded a total of \$2,440,000 in pain and suffering in the past and future to Mr. and Mrs. Rosenberg. ♦

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