



JURY VERDICT

Medical Malpractice \$1,250,000

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\$1.25 million awarded in St. Elizabeth malpractice case

A civil jury recently awarded \$1.25 million in damages to a Waterville woman for medical malpractice at St. Elizabeth Medical Center in Utica after she was not immediately diagnosed as having a rare stroke when she was 16.

Following a nine-day state Supreme Court trial in Rome, a jury found on Feb. 15 that Dr. Timothy Page and St. Elizabeth staff were negligent in failing to immediately diagnose and properly treat the patient, Abigail Smith. The teenager, now 22, suffered an ischemic stroke and collapsed during a play rehearsal at Waterville High School on March 11, 2007.

By the time St. Elizabeth staff eventually consulted a neurologist seven hours later, it was too late for Smith to benefit from a clot-busting drug called tPA that should have been administered within a critical three-hour window of time, said Smith's attorney, Michael Porter.

She was transported to University Hospital in Syracuse for emergency surgery, but continues to suffer from significant speech, physical and other deficits as a result of not receiving timely medical care after arriving at the hospital within an hour, said Porter, of the law firm of Porter Nordby Howe LLP in Syracuse.

"Abby is a delightful, young lady who was an accomplished guitar player in high school," Porter said. "She has worked very hard in therapy to regain as much of her speech and physical function as possible. I really admire her."

The jury deliberated for about four hours before reaching their verdict for damages that included money for past

By Rocco LaDuca, Utica Observer-Dispatch

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medical expenses, as well as past and future pain and suffering, Porter said.

On Monday, St. Elizabeth's attorneys said they still back the trial testimony but would not comment any further at this time while post-trial motions are still pending with Justice Patrick MacRae.

"We agree that Abigail Smith experienced a remarkable recovery as a result of her perseverance in rehab and the excellent medical care she received," said Traci Boris, general counsel for St. Elizabeth. "Ischemic stroke is extremely rare in children, teenagers and young adults and we stand behind the medical proof we offered at trial regarding diagnosis and treatment."

Page, the former director of St. Elizabeth's Emergency Department, is no longer on medical staff at St. Elizabeth.

At trial, the defense attorneys disputed that St. Elizabeth should have been able to diagnose Smith's stroke or that tPA was appropriate for "off label" use for a 16-year-old girl, since the drug is FDA-approved for adults.

Porter, however, said he presented evidence that Page and nurses failed to follow St. Elizabeth's policy regarding neurological exams and that tPA should have been offered because Smith was physiologically an adult.