

# BONEZZI SWITZER POLITO & PERRY CO. LPA

BSPP congratulates Bret C. Perry on obtaining a unanimous defense verdict in favor of his clients, an Infectious Disease specialist, and her practice group, in a recent medical malpractice held in Cuyahoga County, Ohio. Plaintiff, a 56-year-old female had been living independently prior to presenting to the Emergency Department in March 2022 with severe back pain. In the ED, imaging was obtained confirming a likely thoracic spine (T10-T11) infection concerning for spinal cord compression. Plaintiff was admitted to the hospital under the Internal Medicine/Hospital service and Infectious Disease was consulted. Plaintiff was administered IV antibiotics, her laboratory studies, including WBC, CRP, and Sedimentation Rate, normalized and she was discharged, after six (6) days, to a skilled rehabilitation facility for ongoing therapy. Approximately three (3) weeks later, Plaintiff experienced an inability to move her lower extremities and an emergency thoracic corpectomy was performed to relieve compression on her spinal cord.

At trial, Plaintiff alleged that she experienced an acute neurologic change, including loss of lower extremity sensation, consistent with a worsening spinal cord compression, while under the care of Defendants. Plaintiff claimed that these changes were caused by a failure of antibiotic therapy to treat the thoracic spine infection, causing worsening spinal cord compression, and constituting a surgical emergency. Plaintiff's expert witnesses claimed that consultation with spine surgery was required at this time, and due to the failure to consult spine surgery, Plaintiff's condition continued to decline resulting in permanent lower ex-

Defendants countered arguing that Plaintiff's alleged neurologic changes were chronic in nature and related to her long-standing lumbar radiculopathy. Further, had Plaintiff experienced a worsening cord compression at T10-T11, her complaints would have been different from the subjective complaints she expressed while under the care of Defendants. Indeed, if her complaints were caused by compression of her thoracic spinal cord, she would have likely experienced neurologic changes consistent with the T10-T11 dermatomes. Defendants' experts opined that Plaintiff suffered an acute change in condition approximately 24 hours prior to emergency surgery based on the objective medical records, and that the complaints expressed by Plaintiff approximately three-weeks earlier were unrelated to the reason for her emergency surgery and resulting disability.

Plaintiff asked the jury to return a verdict in excess of \$7,200,000 against all Defendants. The jury deliberated for approximately 2.5 hours before returning a unanimous verdict in favor of all Defendants finding that the standard of care was met.



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