

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

November 2019

Statewide Jury Verdict Coverage

20 IJVR 11

Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

Medical Negligence - During a surgical procedure to remove a cyst from his neck, plaintiff suffered a spinal accessory nerve injury that left him with a shoulder droop and constant pain; plaintiff criticized his surgeon for failing to inform him of the risks of the surgery and for performing the surgery incorrectly

Sinex v. Hutchinson,
22D03-1806-CT-763

Plaintiff: Nicholas F. Stein, *Stein Law Office*, New Albany; D. Tysen Smith, II and Kris D. Mullins, *Morgan & Morgan, PLLC.*, Louisville and Lexington, KY

Defense: Clay S. Edwards, *O'Bryan Brown & Toner, PLLC.*, Louisville, KY

Verdict: \$1,250,000 for plaintiff

County: **Floyd**, Superior

Court: J. Granger, 10-3-19

In July of 2016, Jerry Sinex was suffering from diverticulitis – i.e., an inflammation of his colon. He was referred on the matter to a surgeon, Dr. Julie Hutchinson of New Albany. Sinex met with Dr. Hutchinson on 7-28-16 to discuss his options.

Dr. Hutchinson recommended a laparoscopic colectomy, to which Sinex agreed. During the end of the meeting the two also discussed a large cyst on the back right side of Sinex's neck. The record is unclear as to who raised the subject first or exactly what was said.

Sinex would later claim he'd lived with the cyst for more than twenty years and had no problems. Dr. Hutchinson, by contrast, would later claim the cyst was growing and

irritable. In any event, the parties agreed that Dr. Hutchinson would remove the cyst immediately following her completion of the colectomy.

Sinex underwent both procedures on 8-2-16 at Physician's Medical Center in New Albany. As soon as Dr. Hutchinson had completed the colectomy, she repositioned Sinex's neck so she could remove the cyst. As part of that procedure, she made use of an electrocautery device called a "Bovie."

The colectomy was a success and provided Sinex with the relief he sought. The cyst removal, however, was another matter. Following the surgery Sinex experienced shoulder pain and found himself with a shoulder droop on his right side.

It turned out that during the cyst removal Sinex suffered an injury to his spinal accessory nerve that he attributed to Dr. Hutchinson's use of the Bovie. The spinal accessory nerve controls the trapezius muscle and is responsible for most shoulder function. As a result of his injury, Sinex is now permanently disabled and experiences constant dull pain.

Sinex presented the matter to a medical review panel comprised of three surgeons. They were Dr. Francisco Reyes-Martin of Fort Wayne, Dr. Michael Row of Indianapolis, and Dr. Mark Ranzinger of Goshen.

Sinex claimed that Dr. Hutchinson failed to apprise him of the risks of the cyst removal surgery or discuss