

# The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

July, 2007

Statewide Jury Verdict Coverage

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**Medical Negligence - A mentally retarded man underwent surgery to correct curvature of the spine; his brain was deprived of oxygen during the procedure, and he emerged with massive neurological deficits**

*Sangster v. Oni, et al.,*

45D01-0203-CT-68

Plaintiff: John M. Kopack, *Kopack & Associates*, Merrillville

Defense: Robert F. Parker, *Burke*

*Costanza & Cuppy, LLP.*, Merrillville, for Oni; Louis W. Voelker and Karol A. Schwartz, *Eichhorn & Eichhorn*, Hammond, for Kim

Verdict: \$3,000,000 for plaintiffs

County: **Lake**, Superior

Court: J. Kavadias-Schneider (Special Judge), 5-11-07

By the summer of 1996, Steven Sangster, then age 19, had accumulated a lengthy history of medical problems.

For one thing, he was diagnosed ten years previously, in 1986, as being mildly mentally retarded with an I.Q. between 59 and 70. He also suffered from paranoid schizophrenia that caused him to hear voices in his head. As a result of these problems, Sangster lived with his sister, Tametra Burns, who served as his guardian.

In terms of his physical condition, Sangster also suffered from curvature of the spine. Unlike his other conditions, however, this one could be corrected by surgery. The orthopedic surgeon who would perform the procedure was Dr. Richard Oni of Merrillville.

Sangster was admitted to Methodist Hospital in Gary. In the morning of 7-12-96, Dr. Oni, with the assistance of Luiz Demelo and anesthesiologist James Kim, began the surgery on Sangster's spine. Almost from the beginning,

things began to go wrong.

Approximately an hour into the surgery, Sangster began to manifest decreased urine output, the cause of which was unknown. Despite this development, Dr. Oni continued with the surgery. Approximately an hour and a half after that, some of the equipment in the operating room malfunctioned.

Due to the malfunction of the equipment, the medical team was unable to monitor Sangster's nerve responses and oxygen levels. Once again, Dr. Oni elected to continue with the surgery. At some point during the procedure, Sangster experienced an unexplained blood loss, and his serum calcium level dropped below normal. He also suffered a loss of oxygen to his brain.

Shortly before noon, Sangster went into cardiac arrest. At that point Dr. Oni terminated the surgery without completing the procedure, packed Sangster's wounds, and resuscitated him. Sangster was then taken to the Neuro Intensive Care Unit where he remained comatose for several days.

During the time Sangster lay comatose in the NICU, he displayed prolonged seizure activity. After he regained consciousness, he remained in the hospital for nearly four weeks before being transferred to another facility for rehabilitation.

Despite the efforts at rehabilitation, Sangster continues to display symptoms of various neurological problems. Among them are "athetoid-choreiform" movement, a form of cerebral palsy characterized by involuntary jerky movements and a general loss of balance and muscular control. He also has been left with cognitive deficits and is now unable to communicate.

Sangster's sister, on his behalf as his guardian, presented the matter to a medical review panel that included two orthopedic surgeons. They were Dr. David Fisher and Dr. Michael Coscia, both of Indianapolis. The third member of the panel was Dr. Dean Strycker, Anesthesia, South Bend.

Sangster was critical of the medical team's decision to continue the surgery despite reduced urine output,

unexplained blood loss, low calcium level, and loss of the crucial monitoring equipment. He also criticized Dr. Oni for failing to take any corrective action or order any intraoperative lab work in response to Sangster's apparently deteriorating condition.

The review panel returned a mixed opinion. First, the panel decided there was no breach of the standard of care by either Demelo or Methodist Hospital. On the other hand, the panel also found that Drs. Oni and Kim did breach the standard of care and that it was a factor in Sangster's injuries.

Armed with this opinion, Sangster filed suit against Oni, Kim, Demelo, and Methodist Hospital and reiterated his claims as outlined above. His medical experts included panel members Coscia and Strycker. Sangster also identified his treating physician, Dr. Charles Dietzen, Physical Medicine, Indianapolis, as an expert.

During the course of the litigation, Sangster stipulated to the dismissal of Demelo and Methodist Hospital. The case continued against Drs. Oni and Kim. They defended and denied any breach of the standard of care. The identified defense experts included Dr. Harry Shufflebarger, Orthopedic Surgery, Miami, FL.

The case was tried in Hammond for five days. The jury returned a verdict for Sangster and awarded him damages of \$3,000,000. The court followed with a consistent judgment for that amount.

### **Auto Negligence - Although defendant stopped at an intersection and looked for traffic, she failed to see plaintiff approaching; a crash resulted when defendant pulled into the intersection in plaintiff's path**

*Bickett v. Schneider,*

22C01-0403-CT-154

Plaintiff: Cara W. Stigger, *Kaufman Stigger & Hughes, PLLC.*,  
Louisville, KY

Defense: R. Jeffrey Lowe, *Kightlinger & Gray*, New Albany

Verdict: \$312,500 for plaintiff less  
25% comparative fault

County: **Floyd**, Circuit

Court: J. Cody, 1-25-07

On 1-2-03, Tessa Bickett, then age 23, was on her way to lunch. She drove her parents' 1995 Toyota Corolla east on Market Street in New Albany. At the same time, Marie Schneider was traveling on West 1st Street. Her husband had just undergone one of his chemotherapy treatments, and Schneider was taking him home.

Upon reaching the intersection with Market Street, Schneider stopped and looked west for traffic. In doing so she failed to see Bickett's approach. Believing the way was clear, Schneider proceeded into the intersection. Bickett observed this and took immediate evasive action.

Bickett slammed on her brakes and swerved to the left. She was unable to get completely clear, and the two vehicles collided. Bickett seemed at the scene to be unhurt. Accordingly, she went back to work after the crash. Later, however, she left work early and went to the hospital with complaints of pain in her neck and back.

Bickett initially followed a course of chiropractic treatments and physical therapy. She later had surgery on 8-6-04 and was in the hospital for four days. Her medical expenses mounted to \$95,746.

In this lawsuit, Bickett blamed Schneider for pulling out in front of her and causing the crash. Bickett later amended her complaint to add an underinsured motorist claim against her parents' insurer, Shelter Mutual Insurance Company.

It turned out that Schneider was

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