


MEDICAL MALPRACTICE**Failure to Diagnose Vascular Disease****VERDICT:** \$11,500,000.00**CASE:** Anne Walker v. Joel J. Zdanowitz, M.D. and Bernard Rimler, M.D., No. 7940/91**VENUE:** Kings Supreme, NY**JUDGE:** William J. Garry**DATE:** 02-26-1997**PLAINTIFF(S)****ATTORNEY:** Stephen E. Erickson; Great Neck, NY, for Anne Walker**DEMAND:** \$3,000,000; amount asked of jury: \$17,500,000. 14-36-01P

FACTS: On 9/28/88, Plaintiff, a 53-year-old owner and operator of a restaurant/tavern, was admitted to Booth Memorial Hospital, where she was noted to be severely anemic with a hemoglobin count of 3. Plaintiff claimed that she also made complaints consistent with peripheral vascular disease. She was treated by Defendants Zdanowitz, an internist/hematologist (60% liable), and Rimler, an internist (40% liable) from September 1988 through March 1989. Plaintiff contended that Defendants treated her anemia but failed to evaluate her for peripheral vascular disease. She claimed that her symptoms progressed over the ensuing months to include pain in her legs on walking and climbing stairs and when at rest. Plaintiff eventually developed purple toes, an ulceration of one toe, and her feet were ultimately found to be cyanotic. On 2/24/89, Plaintiff was admitted to Booth Memorial where emergency surgery was performed to remove blockages in the arteries in her legs. Proper circulation could not be restored, however, and Plaintiff underwent an amputation of her right leg below the knee on 3/9/89, amputation of the left leg below the knee on 3/16/89, and bilateral above-the-knee amputations on 4/5/89. Plaintiff contended that Defendants' failure to evaluate her for peripheral vascular disease led to a progression of her symptoms and eventual amputations.

Defendants contended that Plaintiff's initial complaints were related to her anemia, and that her subsequent complaints were due to a flare-up of systemic lupus erythematosus. Defendants treated Plaintiff for lupus. Defendant Zdanowitz testified that during Plaintiff's treatment, he had referred her to a vascular surgeon in January 1989 and to a rheumatologist in February 1989.

JURY POLL: (6/0). Jury: 3 male, 3 female.**BREAKDOWN:** \$5,000,000 for past pain and suffering; \$4,000,000 for future pain and suffering; \$2,500,000 for future medical expenses including home health aides.

Liability: Zdanowitz 60%; Rimler 40% negligent.

Note: A high/low \$950,000/\$450,000 settlement (\$1,000,000 policy) was reached between Plaintiff and Dr. Zdanowitz prior to jury deliberations.

Defendant's post-trial motion to reduce the verdict was granted. See below.

In a 3-page decision dated 6/23/97, Judge Garry granted Defendant's post-trial motion stating that the award was excessive and did not "reflect fair value." Decision at p. 2. He reduced the award as follows: \$3,500,000 for past pain and suffering; \$1,500,000 for future pain and suffering; \$2,000,000 for future medical expenses. The remaining post-trial motions were denied.