

Finding the cost of deadly mistakes

• Family of man who
died in dentist's chair asks
court for compensation

BY DAVID KNOX
Beacon Journal staff writer

An Akron woman sat in a dentist's waiting room in May 1994 and heard assurances that her husband would be all right. But by then he might have suffered fatal brain damage because a piece of gauze was blocking his windpipe.

Now Sandra L. Kawczk is asking a Summit County jury, in a trial that began yesterday, for nearly \$10 million in compensation for her 41-year-old husband's death.

Although less than four hours passed between the time when Steven Kawczk sat down in the dentist's chair and hospital tests showed he might have suffered brain damage, the trial is expected to last several weeks.

Kawczk was pronounced dead at Akron City Hospital on May 5, 1994, the day after he underwent oral surgery to replace some front teeth with dentures in preparation for a job interview. Repeated examinations indicated no brain activity.

His widow filed a wrongful-death suit in October 1994 on behalf of herself and three children.

Named as defendants are the dentist, John N. Santin; his assistant, Lori McCauley; the city of Green, which provided the paramedics and ambulance that took Kawczk to the hospital; and Dr. Ugo Gallo, the emergency room physician who treated him.

"Steven Kawczk would not have died if one, some or all of the defendants had not been negligent," attorney Timothy F. Scanlon said in the lawsuit complaint.

But sorting out exactly who was responsible for Kawczk's death will take time.

That's largely because each of the defendants has hired an attorney

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to improve appearance

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ney and is responding differently to the allegations in the lawsuit.

Santin, the dentist, concedes that he made mistakes and is partially to blame for Kawczk's death.

In opening statements yesterday, Santin's attorney, Richard J. Rymond of Cleveland, told the jury that Kawczk's family deserves to be awarded money. He suggested that "fair compensation" would be \$1 million — the maximum amount covered by Santin's malpractice insurance, according to an attorney for one of the other defendants.

But Santin said that he isn't the only one responsible. In a report to the Ohio Dental Board, Santin conceded that Kawczk had inhaled gauze used to stem bleeding from the oral surgery after experiencing a violent reaction while coming out of general anesthesia.

But the dentist maintained that Kawczk was in stable condition when he was transported to Akron City Hospital by Green paramedics.

Jeffrey W. Van Wagner, the attorney for the city, denies that any of the four emergency medical technicians who responded to the 911 call from Santin's office did anything wrong.

Even if they had erred in some way, Van Wagner told the jury, the city would not be liable for damages because Ohio law requires more than simple negligence on the part of municipal employees. To win damages from a city, a plaintiff must prove "willful or wanton misconduct."

Van Wagner said there is no evidence the paramedics did anything but their job: to assess the patient's medical condition and provide transportation to a hospital. "We did that," he said.

Van Wagner noted the ambulance arrived at Santin's Fortuna Drive office five minutes after the call for help, according to official reports. Evaluation and initial treatment, which included forcing air into Kawczk's lung, took 15 minutes.

Fourteen minutes later, Kawczk was at the emergency room of Akron City Hospital.

Van Wagner conceded there would be some discrepancies in the testimony the jury would hear.

Santin told investigators that he told paramedics that he believed Kawczk had inhaled a piece of gauze used to soak up blood from the surgery. He suggested that Kawczk undergo a procedure known as a bronchoscopy to locate and remove the obstruction as soon

as he arrived at the hospital.

The paramedics said they relayed that recommendation to the hospital staff via the ambulance's cellular telephone.

But Dr. Gallo, the emergency room physician, said he never heard that.

Van Wagner termed that discrepancy an irrelevant "red herring" argument because the hospital staff was prepared to do a bronchoscopy as a normal procedure in cases of airway blockages.

Gallo's attorney, Robert Orth of Akron, agreed that Santin's recommendation was not critical to Kawczk's treatment, which he described as "reasonable and prudent" by normal emergency room standards.

Orth argued that Kawczk's brain was irreparably damaged before he arrived at the hospital. He said the piece of gauze, which was lodged below the larynx, had acted as a one-way valve preventing Kawczk

from exhaling properly. The resulting buildup of carbon dioxide in the blood caused the brain damage.

"There was nothing Dr. Gallo could have done," Orth said.

Kawczk, a custodian at Voris Elementary School, had gone to Santin on the recommendation of his family's regular dentist, Cyril Jendrisak.

Jendrisak, the first witness to testify yesterday, told the jury that Kawczk needed an oral surgeon because he wanted to improve the appearance of his teeth but didn't have time for caps and crowns.

"He was up for a job promotion and Steve wanted to look good," Jendrisak said.

Kawczk agreed to have all his front teeth removed and replaced by bridgework, a serious procedure involving a general anesthetic.

Carolyn White, Santin's receptionist, testified that Kawczk arrived about 8:15 a.m. and was let into the operating room. She told the jurors she first knew something had gone wrong when she was called in to help restrain the unconscious Kawczk, who was thrashing wildly in the chair.

White described Kawczk's complexion as "gray," something she had never seen before.

White said she overheard the dental assistant, McCauley, tell Santin twice that she couldn't find one of the gauze packs used in the procedure. Santin responded that he "must have removed it."

After a while, Kawczk's coloring appeared to return to normal, White said.

When she returned to the waiting room, she told Kawczk's wife not to worry, that "her husband would be OK."

White, who was later fired for reasons unrelated to the suit, testified that the day after Kawczk's death, Santin asked her to falsely testify that she was in the operating room during the whole procedure.