

MEDICAL MALPRACTICE**Negligent Treatment — Medical Malpractice — Pharmacist****Store manager improperly applied leg ulcer treatment****SETTLEMENT** \$1,400,000

CASE Florence Glassman v. The Regents of the University of California and Bishop's Medical Supplies, No. CGC-05-445394

COURT Superior Court of San Francisco County, San Francisco, CA

NEUTRAL(S) Daniel J. Kelly

DATE 11/1/2006

PLAINTIFF ATTORNEY(S) Jeffrey A. Haas, Jeffrey A. Haas Law Corporation, Montara, CA
Cliff Weingus, McTernan, Stender & Weingus, San Francisco, CA

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Valerie S. Higgins, Clapp, Moroney, Bellagamba and Vucinich PLC, San Bruno, CA (Bischoff's Medical Supplies)
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Marc N. Zimmerman, Hassard Bonnington LLP, San Francisco, CA (The Regents of the University of Calif.)

FACTS & ALLEGATIONS On April 8, 2005, plaintiff Florence Glassman, 84, retired, received a prescription for compression stockings from the University of California, Mount Zion Wound Clinic, where she was being treated for ulcers in her legs. Glassman took the prescription to the San Francisco location for Bischoff's Medical Supplies, Citrus Heights, in order to get it filled. At Bischoff's Medical Supplies, the manager applied the compression stockings to Glassman's legs over her bandages and other garments. The application of the compression stockings eventually led to Glassman developing profound ischemia (a decrease in the blood supply) to both of her legs.

Claiming injuries, Glassman sued the Regents of the University of California and Bischoff's Medical Supplies for negligence and medical malpractice.

Plaintiff's counsel argued that the two parties were jointly and severally liable for the series of events that led to the man-

ager at Bischoff's Medical Supplies, applying the compression stockings to Glassman's legs because the manager should not have placed the compression stockings and the Regents of the University of California did not properly discuss the process to her.

Counsel for the Regents of the University of California contended that Glassman failed to properly follow the instructions that the staff at Mount Zion Wound Clinic gave her when they issued the prescription. Counsel asserted that Glassman was specifically told that she was to have the prescription filled and then return to the clinic to have the compression stockings fitted. Counsel further denied that the Regents of the University of California was liable because the manager at Bischoff's should have known better than to apply the compression stockings over Glassman's bandages and garments when she got the prescription filled there.

Initially, Bischoff's Medical Supplies denied that any of its staff members applied the compression stockings to Glassman's legs but the discovery phase confirmed that the Bischoff's manager had, in fact, applied the stockings.

Counsel for Bischoff's Medical Supplies contended that the stockings were applied over the bandages pursuant to the physician's oral directions as understood by Glassman, and her daughter, and as indicated on the written prescription.

INJURIES/DAMAGES *dementia; ischemia; leg*

Plaintiff's counsel argued that the incorrect application of the compression stockings caused Glassman's legs to develop severe ischemia. Counsel argued that the injury was so astringent that Glassman's treating vascular surgeon was almost forced to amputate her legs. Instead, Glassman underwent four vascular surgeries on her legs over the course of several weeks, at which point she was transferred to a skilled nursing facility. Plaintiff's counsel further argued that the ordeal led Glassman to develop dementia and restricted ambulation. Counsel asserted that the sum total of Glassman's injuries had effectively forced her into residence at an attendant care facility for the remainder of her life. As a result, counsel initially sought \$100,000 in past medical specials, \$100,000 in past nursing specials, \$100,000 in future medical specials, \$781,000 in future nursing specials and an unspecified amount for past and future pain and suffering. However, plaintiff's counsel eventually claimed economic damages between \$1,546,660 and \$1,972,489 because they elected to incorporate any potential wrongful death damages in their claim. In regards to their request for pain and suffering damages, plaintiff's counsel asserted that they would request that the court allow for Glassman to receive general damages beyond the full \$250,000 MICRA cap restriction because, as they had argued in *Lathrop v. Healthcare Partners*, this matter involved a defendant that was not a licensed health care provider.

Counsel for both defendants argued that Glassman's leg ulcers simply became infected and that she did not develop ischemia on her legs. Counsel further asserted that Glassman's infected ulcers were not related to any alleged negligence by the defendants.

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Regarding the claimed damages, counsel for the defendants argued that the \$781,000 that plaintiff's counsel was seeking for future nursing care was highly speculative because it was unlikely that Glassman would live long enough to expend that sum on nursing care. Furthermore, counsel asserted that Glassman was already living in an attendant care facility prior to the incident and her numerous medical problems would have caused her to remain in the facility for the remainder of her life, regardless of any residual damages that may have resulted from the injuries that she was claiming.

RESULT By November 2006, all of the parties agreed to settlements whereby the Regents of University of California agreed to pay Glassman \$700,000 and Bischoff's Medical Supplies agreed to pay her \$700,000. As a result of the settlement agreements, Glassman's personal injury claims and any potential resulting wrongful death claims against the two defendants were resolved.

INSURER(S) First Specialty Insurance Co. for Bischoff's Medical Supplies
self insured for the Regents of the University of Calif.

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EDITOR'S NOTE This report is based on information that was provided by plaintiff's and defense counsel.

-Joshua Couzens