

Tired Doctor Blamed for Errant Injection Leading to \$4.25 Million Verdict

Plaintiffs blame fatigued doctor for misplaced epidural

By Christian Nolan

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Sean McElligott

Erika Andrade v. William J. Gacso and Medical Anesthesiology Associates, P.C.: A mother who suffered a permanent spinal cord injury after an anesthesiologist botched a painkilling epidural injection during childbirth has been awarded \$4.25 million.

On July 31, 2009, Erika Andrade went to St. Vincent's Medical Center in Bridgeport to give birth to her third child. Andrade, 33 at the time, had no prior history of back problems. According to one of her lawyers, Sean McElligott, of Koskoff Koskoff & Bieder, Andrade needed an epidural to control pain. The anesthesiologist, William Gacso, who is now 78 years old, came in to perform the epidural after working for 24 hours straight.

"He put the epidural needle in the wrong spot in her back, between the wrong vertebrae," said McElligott. "She then had an instant feeling of pain ... like an electric shock-type feeling run down her right leg."

McElligott said Gacso took the needle out and put it in the same spot and the same thing happened again. He went lower in her back the next time and the epidural helped with pain and Andrade delivered a healthy baby, Matthew Hernandez, who is now 6 years old.

McElligott's co-counsel, David Bernard, also of the Koskoff firm, believes the anesthesiologist never should have attempted the procedure after working so many hours straight. "A doctor going without sleep for 24 hours should know that accidents are more likely to occur," said Bernard. "In this case, it is clear that Dr. Gacso should never have attempted the epidural on Erika. He should have known to call in a substitute anesthesiologist."

A couple hours after the injections, Andrade was in agony again. Just placing a blanket over her leg caused excruciating pain, McElligott said. She continued to deal with the painful sensations known as paresthesia. Other times it felt as though her leg was just asleep. She had trouble walking for more than a short distance as her leg would give out.

McElligott said Andrade began receiving treatments from a neurologist. An initial MRI of her lumbar spine did not reveal why she was in so much discomfort. So the neurologist ordered a thoracic spine MRI and that revealed a hole in Andrade's spine where Gacso had placed the needle. According to the lawsuit, the needle striking the spinal cord caused a cystic lesion that has permanently deprived her "of her ability to carry on and enjoy life's activities." She is expected to continue to incur medical expenses for many years.

McElligott said her doctor told her the injury would not heal. Numerous pain medications have not helped. McElligott said her life today is "very sedentary." She doesn't leave the house much and cannot sit for long periods of time. Sometimes the discomfort keeps her up all night.

"It's not debilitating every day. Some days are better than others," said McElligott. The attorney said she stretches and moves around more during the day to help control the pain. He said if she gets into a car accident or simply old age causes her discs to slip, she could become paralyzed. "That's a real risk she faces in the future," said McElligott.

Andrade brought a medical malpractice lawsuit against Gacso and his employer, Medical Anesthesiology Associates in Shelton. The defendants were represented by David Robertson, of Heidell, Pittoni, Murphy & Bach in Bridgeport. Robertson did not respond to interview requests.

McElligott said the defense took the position that the hole in Andrade's spine was so far from where the needle should have gone in for the epidural that it couldn't have possibly been caused by Gacso. Instead, the defense argued that the lesion was a congenital condition that Andrade had all along but that it did not become symptomatic until after she gave birth to her third child.

To counter the defense, McElligott presented expert witnesses who explained that the lesion had a teardrop shape consistent with a needle-like injection, as opposed to resembling anything that would be congenital.

Settlement discussions were fruitless. McElligott said the defense did not offer more than \$150,000. The case then proceeded to trial, which lasted four weeks until concluding earlier this

month. McElligott said the defense attacked Andrade's credibility throughout and showed a seven-minute video of her that was based on six days of surveillance. The video showed her outside her home and doing some errands.

Andrade, originally from Honduras, does not speak English. An interpreter was needed for her testimony.

McElligott said by the second-to-last day of testimony, the defense changed its argument. "I called it the late-breaking, risk-of-the-procedure defense," said McElligott. "Well, maybe we did hurt her, but in a way that is within the standard of care."

McElligott believes that the testimony from Andrade's neurologist made the difference with the jurors. He said everyone in the courtroom would have wanted the neurologist as their doctor, especially after hearing him describe how he would spend up to an hour just talking to Andrade about her condition in hopes of easing her stress about the chronic nature of it.

"It was like his worst nightmare to have to testify," said McElligott, contrasting him to paid experts who routinely testify at trials. "He was there to say, 'This is my patient, she's not a complainer, her injuries are documented ... and this is what I think happened.'"

After deliberating for two-and-a-half days, the jury awarded Andrade \$4.25 million. Of that amount, the jury awarded \$1 million for past pain and suffering, \$1 million for past loss of enjoyment of life's activities, \$1.12 million for future pain and suffering, and \$1.12 million for future loss of enjoyment of life's activities.

"She was happy she got justice, though it was a very long road," said McElligott.