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'Negligent' receptionist tags doctors with liability

From [Virginia Lawyers Weekly](#), February 5, 2001 by Dawn Chase

Even though an Alexandria jury found for a physician in a medical malpractice suit, it nonetheless found against the physician's practice, in part because of the negligence of a receptionist who scheduled the appointment.

The jury found that the receptionist and a triage nurse were negligent after hearing testimony that each had violated the standard of care for her job, and by doing so had contributed to the practice's failure to diagnose and treat a viral eye infection, which caused the Plaintiff to go blind.

The jury awarded \$650,000 in the case, which ultimately was settled, in the wake of post-trial motions, for \$300,000.

The case, *Runyon v. Stitch, Cochran and VNC Neuroscience Center Ltd.*, was tried over five days beginning Oct. 16, with Alexandria Circuit Judge Alfred D. Swersky - presiding.

Med-mal attorneys consulted by *Virginia Lawyers Weekly* could recall no other cases of a verdict tied to a receptionist's negligence. Roger L. Amole of Alexandria, the plaintiff's lawyer in the case, considers it a case of first impression.

Defense lawyers included Tara M. McCarthy, who represented the medical practice and who could not be reached for comment, and Stephen L. Altman, who represented the physician.

According to Amole, the facts of the case are these: The patient was a 65 year old man who was receiving chemotherapy for Lymphoma. He experienced a sudden decrease in the peripheral vision of his right eye. He went to an ophthalmologist, who after finding no disease or injury, referred him to a neuro-ophthalmologist.

The man's wife called to make an appointment with the specialist, stating it was an emergency. The receptionist told her that the neuro-ophthalmologist would not be available for a month, and instead scheduled the man to see a neurologist one week later. "The young person on the phone, in effect, made that decision," Amole said.

The Neurologist examined the man in February 1998, and saw indications of poor optic nerve function or retinal function in his right eye. The neurologist was not, however, qualified to perform a particular test - an indirect fundoscopic exam - that could have detected the virus.

The neurologist surmised that the problem was due to decreased blood to the optic nerve, related to the lymphoma. He arranged for the man to undergo further tests, including an MRI, and return in two weeks.

The man's vision continued to deteriorate. His wife contacted the practice twice, the second time reporting to a triage nurse that her husband's vision was nearly gone in his right eye. The neurologist's note instructed the man to see an eye doctor, but that message was never delivered by the nurse to the man or his wife.

On March 15, the man's left eye began to fail. His oncologist examined him on March 16 and, using an ophthalmoscope, found his right eye severely inflamed. He referred the man immediately to an ophthalmologist, who sent him on to a retina specialist. The last two doctors diagnosed the condition as viral retinitis.

The man was immediately hospitalized and given anti-viral medication. The treatment came too late to save his right eye. Surgery was required to repair the left eye. His remaining sight amounted to "looking through a straw covered at the end with saran wrap," according to expert testimony. The Plaintiff's experts included Sandra Dahl, a registered nurse with a master's degree in health-care administration. She testified that the receptionist violated the standard of care required of office personnel.

The receptionist should have treated the initial call from the patient's wife as an emergency, Dahl testified. She should have talked to an RN or physician about the call immediately or referred the patient to an emergency room if the neuro-ophthalmologist was not available.

Also, the receptionist should not have offered a less qualified physician as a substitute for the neuro-ophthalmologist, Dahl said. And she should not have scheduled the appointment a week away.

The triage nurse violated standards of care by failing to record adequate information from the patient about his symptoms, and by failing to convey the doctor's instructions to go to an ophthalmologist to the patient, she said.

Physician experts testified that the man's vision could have been saved as early as Feb. 25, but was irretrievable by the time the diagnosis was made.

The man tried to make the case that the neurologist who conducted the examination was bound by the standard of care for a neuro-ophthalmologist, because he was substituting for one. That did not fly with the jury, however, which found in favor of the doctor.

Complicating factors in the case included the fact that the Ophthalmologist who made the initial referral to the neuro-ophthalmologist did not refer to the situation as an emergency. The Plaintiff presented no evidence that the receptionist should nonetheless have treated it as an emergency, because the patient's wife had said it was.

Also, the size of the award was challenged because the man lived less than two years with his blindness, Amole said.

According to Amole, the defense filed post-trial motions asking that the verdict be set aside. If the neurologist was not negligent, his practice could not be held negligent either, the defense argued. And, even if the nurse and receptionist were negligent, they could not have been the proximate cause of injury, the defense argued.

The Plaintiff countered that the jury might have acquitted the neurologist because they did not think he should be held to the higher standard of care, or because he did not know that the Plaintiff had been referred to a neuro-ophthalmologist - which should not let the practice off the hook.

The defense asked that the award be reduced, arguing that the size was shocking to the conscience and the result of prejudice, sympathy or bias. The court took the motions under advisement, and the case settled.