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Med-mal mediation yields \$19 million

By Pat Milhizer
Law Bulletin staff writer

A former controller described as once having a "brilliant financial mind" but who now has trouble speaking after Evanston Hospital didn't immediately treat his stroke will get \$19.5 million under a settlement reached Monday, his attorney said.

Ted Baxter, 41, went to the emergency department at Evanston Hospital in 2005 with symptoms of a stroke. Hospital staff didn't treat him with a tissue plasminogen activator that can dissolve blood clots, and nurses also didn't respond to the requests of Baxter's wife for a re-evaluation, according to a medical malpractice claim filed by Baxter. His stroke wasn't diagnosed for 12 hours, permanently disabling him from his job as global controller at Citadel Hedge Funds.

Baxter's attorney, David R. Barry Jr. of Corboy & Demetrio P.C., said the hospital realized that mistakes had been and immediately wanted to resolve the case through mediation.

Baxter's medical expenses topped \$100,000, and the settlement reflects his lost wages, Barry said.

"It was a terrific settlement for everyone involved. There was significant exposure on both sides. Evanston Hospital could have been hit for more money than that, and a verdict could have been significantly lower," Barry said. "It made economic sense for both sides."

In person, Baxter appears normal, "so you never know what a jury is going to do with something like that. The case was driven by a lost wage claim, but there are a lot of people who think that giving \$8 million or \$10 million is all the money in the world," Barry said.

Barry described Baxter's condition by saying that if Baxter is told three things, he can remember a little more than one or two things.

"He's a brilliant financial mind, and he can't function at that level," Barry said.

Evanston was represented by Michael

R. Slovis of Cunningham, Meyer & Vadrine P.C. He couldn't be reached for comment Tuesday.

Donald P. O'Connell served as mediator. *Ted Baxter and Kelly Baxter v. Evanston Northwestern Healthcare Corporation, et al.*, No. 06 L 6250

In another settlement involving Corboy & Demetrio attorneys, a general contractor and two subcontractors agreed Thursday to pay \$2 million to a roofing foreman who fell through an unsecured opening in a building under construction.

Steve Roque, 41, fell through the roof of the Homan Square Community Center in 2001, fracturing his heel, pelvis and a portion of vertebral column.

The heel injury required Roque to undergo two orthopedic surgeries, and he was diagnosed with complex regional pain syndrome. He had a third surgery to implant a spinal cord stimulator to help alleviate the pain.

All three defendants denied cutting the hole or improperly securing the cover. One of Roque's attorneys, Michelle M. Kohut of Corboy & Demetrio, said each defendant had to follow federal standards to ensure that the cover was screwed down and marked with paint.

Under the settlement, Pepper Construction Co. will pay \$1 million. The other \$1 million will be divided between East Iowa Deck Support Inc. and Charles F. Bruckner & Son Inc., which are both covered by the same insurance company, Kohut said.

In addition to Kohut, Roque was represented by Shawn S. Kasserman.

Pepper Construction was represented by Thomas P. Boylan of Cassidy, Schade LLP; East Iowa Deck Support Inc. was represented by Jon P. Malartsik of Paulsen, Malec & Malartsik Ltd.; and Charles F. Bruckner & Son was represented by Nunzio C. Radogno of Radogno, Cameli & Hoag P.C.

Steve Roque and Julie Roque v. Pepper Construction Co., et al., No. 04 L 13318.