

Court Rules Expert Proof Needed In Alleged AT Malpractice Case

After a high school football player and his family sued a rehabilitation center and an athletic trainer contracted by the school district for allegedly failing to assess the player's symptoms of head trauma, an appeals court ruled the plaintiff must present expert proof from a medical professional to make that claim in a retrial.

During the first quarter of a game, the player violently collided with a teammate. Following the collision, the player wasn't assessed or evaluated for symptoms of concussive brain trauma. The player continued in the game and suffered numerous additional impacts to his head, according to the complaint in the case. During the fourth quarter of the game, according to the complaint, the player appeared on the sideline, dazed, and "suffered numerous brain bleeds as a result of continuing to play football following a concussive brain trauma."

The complaint asserted that "second impact syndrome occurs when the brain swells rapidly and catastrophically as a result of additional blows to the head following a concussive brain trauma."

At trial, the rehabilitation center and athletic trainer argued that the case should be dismissed because the family didn't comply with existing regulations for bringing a malpractice case. The trial court sided with the family on this issue, and the center and athletic trainer appealed the decision.

The appeals court determined it was necessary for the family to attach a certificate from a health care professional when the complaint alleges negligent conduct by a licensed athletic trainer for failing to evaluate an athlete for a concussion following a head trauma suffered while participating in an athletic program.

The court concluded that a determination of whether to assess or evaluate the player following the first-quarter collision requires at least some degree of medical judgment. Considering the defendants' status as licensed athletic trainers, their alleged acts and omissions, and plaintiffs' theory of liability, the court ruled that the complaint is based on healing art malpractice.

The court stated that when a claim is filed alleging healing art malpractice, such as this one, an affidavit from the plaintiff or his attorney must be attached to the complaint. In this case, plaintiffs need to present expert testimony with respect to the applicable standard of care since a determination of those issues is beyond the knowledge of the average lay juror.

The duty to evaluate and treat onsite injuries is vested in athletic trainers licensed by and subject to discipline by the state, the court noted. In the context of the negligence allegations in this case, a determination of the standard of care required of the defendants, including the specialized knowledge and skill involved in carrying out an athletic trainer's duties to assess, evaluate and recognize an athlete's condition, isn't within the grasp of a lay juror, the court decided.

As a result of the ruling, the plaintiffs will need to establish that the defendants failed to employ the degree of knowledge, skill and ability that a reasonable athletic trainer would employ under similar circumstances, but should be given that opportunity by the trial court, the appeals court ruled.

However, the court ruled to require the plaintiffs in this case to file a written report from an athletic trainer with the same class of license as the defendant would be contrary to the plain language in the state statute.

The health professional who reviews the case “need not be someone in the same profession, with the same class of license as the defendant athletic trainer, but instead must be a physician licensed to practice medicine in all its branches,” the court stated.

The court remanded the case to the lower court to give the plaintiffs a reasonable opportunity to comply with their ruling in the case.