



Closed Claim Study

Defense Verdict in Alleged Negligent Placement of Crystalens

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ALLEGATION

Negligent placement of a Crystalens in the sulcus resulting in a lens exchange.

DISPOSITION

Defense verdict.

Case Summary

A 45-year-old female patient was diagnosed with cataracts OU and underwent an uncomplicated cataract surgery OD with placement of a Crystalens. The insured ophthalmologist recommended the Crystalens implant because it might allow the patient to be free of glasses and have fewer starbursts and halos. At the first postoperative examination, the patient's uncorrected vision was 20/20 OD. At the second visit, the patient's uncorrected visual acuity remained 20/20 OD, but she complained of blurry, tunnel vision, and poor distance vision. At the third follow-up examination, uncorrected visual acuity decreased to 20/50, corrected to 20/25 OD, with complaints of halos and starbursts. The insured recommended a second opinion, which revealed an uncorrected visual acuity of 20/30 corrected to 20/20 OD near, with the Crystalens in good position. The patient self referred to another ophthalmologist whose examination revealed uncorrected 20/30, 20/20 corrected distance vision with J3 at near with the Crystalens in good position. The patient consulted an attorney and was referred to an ophthalmologist he utilized as an expert in medical malpractice cases. This ophthalmologist's exam revealed 20/50 uncorrected visual acuity and 20/20 OD corrected. The plaintiff expert ophthalmologist performed a lens exchange procedure and placed an AMO model ZA9003 posterior chamber intraocular lens OD. During trial, the plaintiff's vision was 20/30 uncorrected, corrected to 20/20 at distance OD, with 20/25+1 corrected at close distance.

Analysis

The plaintiff expert testified that he did not recommend a lens exchange; rather, the patient requested it due to continuing complaints of blurry vision from "jiggly lines," glare, halos, and tunnel vision. The patient reported that the lens exchange procedure improved her visual acuity but did not alleviate the halos and starbursts. The plaintiff expert testified that during the lens exchange the Crystalens was in the sulcus. He opined that the lens must have been incorrectly placed there by the OMIC

insured although this expert admitted he did not use and had no experience with Crystalens implants. The OMIC insured and both subsequent treating ophthalmologists maintained that the Crystalens was in the capsular bag when they examined the patient. OMIC's defense expert testified that it was possible for a lens to move from the capsular bag to the sulcus, and he noted that the plaintiff's vision was correctable to 20/20 OD postoperatively. OMIC believed the insured's care was defensible. First, there was support from an expert with significant experience using Crystalens implants and from two subsequent treating ophthalmologists that the lens was properly positioned, while the plaintiff expert was a "hired gun" with no experience using Crystalens. Second, the OMIC insured would relate well to a jury as "an expert" on behalf of his own defense, and the defense counsel had previously and successfully tried cases against this plaintiff attorney. The only hesitation in taking this case to trial was the venue, which had a reputation for plaintiff-oriented juries. Nevertheless, OMIC was confident that a jury would return a defense verdict, and the case proceeded to trial. After two days at trial and 90 minutes of deliberation, the jury returned with a unanimous defense verdict for the OMIC insured.

Risk Management Principles

In addition to a signed written consent form for cataract surgery with a Crystalens, the insured documented his conversations with the patient regarding the Crystalens. The informed consent specifically mentioned double vision or ghost images, shadows in the peripheral vision, floaters or flashes of light, and halos or reflections from lights. The insured's records were complete and it was easy to follow his thought processes throughout his treatment of this patient. When he could find no objective reason for the patient's postoperative complaints, he referred the patient for a second opinion, which confirmed a good result and proper positioning of the Crystalens. During litigation, the insured set aside adequate time to meet with defense counsel in preparation for deposition and trial testimony. Although a well-qualified defense expert was hired by OMIC, it was defense counsel's opinion that the insured's trial testimony had the greatest impact on the jury. As this case demonstrates, active participation by the insured in defense of a medical malpractice case can significantly contribute to a favorable outcome.