



CONTACT:

Alan Perer
SPK, The Law Firm of Swensen, Perer & Kontos
412-281-1970, pererah@aol.com

Danielle Elderkin
Cover Story Communications
412-527-5124, danielle@coverstorycom.com

Revised: January 19, 2009 – See Erratum below

MEDIA ADVISORY:

\$1 MILLION VERDICT IN LASIK SURGERY CASE

Pittsburgh – (November 20, 2008) – Late yesterday, David N. Cantalupo and his wife, Melissa Cantalupo, won a verdict that will amount to close to \$1 million against a doctor, Dr. M. E. Whitten, who performed Lasik eye surgery on Mr. Cantalupo in 2001 at The Laser Center in Wexford. The case was tried in the Court of Common Pleas before a jury and Judge Paul F. Luty, Jr.

The Allegheny County jury found that the plaintiff had not been made aware of the risks involved, and therefore did not give informed consent to the surgery.

The Cantaloupo's lead attorney, Alan H. Perer, also announced a separate settlement for an undisclosed amount had been reached, prior to the verdict, with The Laser Center and another physician involved with the case. The final recovery for the couple will exceed \$1 million.

"At the time of the surgery, my client had abnormally thin corneas. The LASIK procedure thins the cornea to change its shape. A known complication of using this procedure on patients with this condition is a permanent and incurable condition known as ectasia," said Perer, who is a senior partner at SPK, the law firm of Swensen, Perer & Kontos.

A corneal transplant may be the only way for David Cantaloupo to recover his sight in the affected eye, according to Perer. "His vision is 20/80 in the eye that was damaged. And it's extremely distorted and limited. And because the eye is deformed, corrective lenses and glasses don't work."

"The problem arose because Lasik surgery has become a factory assembly line procedure," said Perer. "At the time, the doctor was flying into Pittsburgh in the morning and doing 35 patients in one day. That's surgery on 70 eyes and with a new patient every 15 minutes. It is very easy to see how a patient like David, with a special condition, would be operated on without an understanding of the risk he was taking."

David Cantalupo, who is an engineer, is counting on the verdict to help not only himself but others who might be harmed in a similar manner. "I'm grateful to the Allegheny County jury for what they did, and I am hopeful that this case will prevent others from suffering through what I have," said Mr. Cantalupo.

Also representing the plaintiffs was Brian W. DelVecchio, of SPK - The Law Firm of Swensen, Perer & Kontos.

All questions regarding the case should be directed to Alan H. Perer, at SPK - The Law Firm of Swensen, Perer & Kontos, One Oxford Centre, Suite 2501, Pittsburgh, PA, 15219. Phone: 412-281-1970. E-mail: perer@aol.com.

Further information can be obtained at the SPK web site: www.spkpowerlaw.com

FACT SHEET

VERDICT:

On November 19, 2008, a 12-member Allegheny County jury awarded \$875,000 to David Cantalupo and Melissa Cantalupo, his wife, against Dr. M.E. Whitten, M.D., an eye surgeon from Rockville, Maryland.

David N. Cantalupo and Melissa Cantalupo, his wife v. TLC The Laser Center (Pittsburgh), L.L.C.; M.E. Whitten, M.D. and Bernard K. Feinman, O.D. No. G.D. 06-7982
In the Court of Common Pleas of Allegheny County, Pennsylvania

- Dr. Whitten, on January 9, 2001, regularly performed LASIK surgery at TLC, The Laser Center (Pittsburgh), located in Wexford.
- TLC is a Canadian Corporation and is believed to be the largest LASIK company in the country, with over 70 surgical centers.
- The jury found that the material risks and potential complications of the surgery were not explained to David Cantalupo. For that reason, he did not give an informed consent to the surgery.
- At the time of the surgery, David Cantalupo was 27 years of age and a graduate of Penn State. He was 27 when he underwent elective LASIK at the Wexford facility.
- At the time Mr. Cantalupo underwent LASIK, his wife, Melissa, was working as an assistant at TLC in Wexford, and they met and got married the same year. They have two children and live in North Huntingdon, Pennsylvania.
- At the time of surgery, David Cantalupo had abnormally thin corneas. The LASIK procedure is performed by thinning the cornea to change its shape. A known complication of the procedure as a result of the thinning is a condition known as ectasia. This is a permanent and incurable condition, and Mr. Cantalupo may require corneal transplants from a cadaver in the future.
- The procedure at TLC at the time was that Dr. Whitten would fly in on the day of surgery and, as he did on January 9, 2001, he would do surgery on 35 patients (70 eyes), and the patients were scheduled every 15 minutes during the day. He earned approximately \$1,000 per patient.

- David has tried at least 15 pairs of contact lenses and glasses, but, due to the deformity in his eye, he is unable to tolerate contacts for more than an hour or two. His vision is 20/80 in the eye, and his sight is extremely distorted and limited.
- The trial of the case began on November 10, 2008, and the verdict was entered on November 19, 2008, in the courtroom of The Honorable Paul F. Luty, Jr.
- In addition to the verdict, the Cantalupos settled during trial with TLC The Laser Center and Bernard Feinman, O.D. for an undisclosed sum.
- The Cantalupos will file a Petition for Delay Damages/Pre-Judgment Interest, which would add approximately \$122,841.60 to the verdict, bringing the final amount to \$997,841.60.
- The Cantalupos were represented by: Alan H. Perer and Brian W. DelVecchio, from SPK, the Law Firm of Swensen Perer & Kontos, with offices at One Oxford Centre, Suite 2501, Pittsburgh, Pennsylvania, 15219. All questions should be directed to Alan Perer at this address, or by phone at 412-281-1970, or email at pererah@aol.com
- More information can be obtained at the SPK web site: www.spkpowerlaw.com.

ERRATUM: An earlier version of this release lists Michael J. Talone, O.D. as one of the parties who settled with the plaintiffs. This was incorrect. Michael J. Talone, O.D. was not a party to the settlement

SPK, the Law Firm of Swensen, Perer & Kontos, is located in Pittsburgh. The firm's practice concentrates on medical malpractice, wrongful death and general personal injury litigation. Notable cases involving SPK have been featured on ABC's 20-20, Dateline NBC and in USA Today. For additional information about SPK, please visit www.spkpowerlaw.com.

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