

Liability and Causation Report on: **Liz PERLOFF**

Date of Birth: 12TH January 1966

Address: 67-68 Hatton Garden
London EC1NB 8JY

At the request of: DAC Beachcroft LLP
7 Park Square
East Leeds LS1 2LW

Solicitor's Reference: CLXS – NHS017-1006870

Produced by: Martin D Bircher FRCS
Consultant Orthopaedic Surgeon
The Ashted Hospital

Date of Report: 21ST May 2015

This is a breach of duty and causation report produced at the request of DAC Beachcroft LLP on behalf of the NHS Litigation Authority. I have been asked to comment on the standard of care afforded to a Liz Perloff following an accident on the 20th October 2011.

I am a consultant orthopaedic surgeon working at St George's Hospital and Medical School, London. I have a major interest in trauma and particularly acetabular and pelvic surgery. My elective interests lie in all aspects of lower limb surgery including total hip replacement, total knee replacement, arthroscopic procedures and foot and ankle surgery.

I was appointed consultant trauma & orthopaedic surgeon in 1989 at Epsom General Hospital transferring to St George's Hospital in 1992. There I established the pelvic unit which now has become an integral part of the Level 1 Trauma System centre within the London trauma network.

I was elected to the Council of the Royal College of Surgeons in 2010 for period of six years. I am on the Council of Management and the Editorial Board of the Bone and Joint Journal. I regularly review articles for other UK and European orthopaedic publications.

I have been carrying out medical reports since 1998 and I am listed in the UK Register of Expert Witnesses. I have prepared over 3500 personal injury reports and over 400 medico negligence reports. In 2009 I published an audit of my medico-negligence practice in the Journal of Bone and Joint Surgery (Ref: JBJS Vol 81 (b) Issue 2 151-156).

I remain in active clinical practice both in trauma surgery and elective lower limb surgery.

For the purposes of this report I have

- a) Pre-action Protocol Letter of Claim dated 27 March 2015
- b) Paginated hospital medical records on a password protected disc
- c) Radiology on a disc

HISTORY OF EVENTS

Mrs Liz Perloff fell down some stairs on the 20th October 2011. The A&E notes record her being seen on the 20th October 2011 at 21.40 hrs by Mr Behan, who was the consultant. It says "Right ankle giving way. Fell down staircase." X-rays were noted to show a fracture of the distal fibula and a below knee backslab was applied. There is no mention of whether there is any deformity or swelling. She was given a backslab, the area was immobilised and she was given painkillers.

The 20th October of that year was a Thursday. The patient was not seen until the Monday morning Fracture Clinic where a talo-navicular dislocation was diagnosed along with the ankle fracture. The patient was admitted to hospital and two days later had a surgical procedure (MUA and K wires of the right talo-navicular joint). A conservative treatment of the ankle fracture.

The patient was followed up in the Outpatients. She was seen on the 5th December and the K wires were removed at the clinic on the 5.12.2011(74 of 196). Swelling was persisting and a CT scan was arranged in the early part of 2012. The CT scan showed that there were some arthritic changes in the talo-navicular joint but the range of motion was good and she was discharged from the clinic.

I am unaware of the actual outcome.

X-RAYS

X-rays taken on the day of the injury (20.10.2011) AP and lateral of the ankle and the foot show a Weber B stable ankle fracture. There is also an obvious talo-navicular dislocation.

27.10.2011 this is with the wires in position. Both the ankle and the talo-navicular dislocation are well reduced.

14.11.2011 – x-rays are satisfactory

5.12.2012 – this is following removal of the wires. The talo-navicular dislocation looks satisfactorily reduced.

CT scan 22.3.2012 – the lateral AP and cross sectional view shows that the talo-navicular joint is congruent and well reduced. There is some mild degenerative changes.

Medical report on Mrs Liz Perloff contd.

OPINION

Although I am not an A&E doctor, there was a clear breach of duty here to miss the major injury here which was the talo-navicular dislocation. It is a classic error that people make when there is one more common injury. It is not unusual for there to be dual injuries and the second unusual injury was missed on the 20th October 2011. This represents in my opinion a clear breach of duty.

The management from the 24th October 2011 with admission, elevation and then planned reduction and internal fixation is entirely appropriate.

Opinion – causation

Although there was a failure to diagnose the injury on the 20th October 2011 and I believe a failure to report the injury on the 21st October, there has been no long term damage here. The patient would have required reduction and fixation with K wires and the long term result, as judged by the CT scan is excellent. The only short term causative effect of the delay in making the diagnosis was the fact that the patient did not undergo surgery for perhaps two or three days. This has had no effect on the long term outcome, the recovery period has not been affected and all she has suffered is a few days extra pain and suffering.

DECLARATION

1. I understand that my overriding duty is to the Court, both in preparing reports and in giving oral evidence. I have complied with and will continue to comply with that duty.
2. I am aware of the requirements of Part 35 and Practice Direction 35, the protocol for instructing experts to give evidence in civil claims and the practice direction on pre-action conduct.
3. I have set out in my report what I understand from those instructing me to be the questions in respect of which my opinion as an expert is required.
4. I have done my best in preparing this report, to be accurate and complete. I have mentioned all matters which I regard as relevant to the opinions I have expressed. All of the matters on which I have expressed an opinion lie within my field of expertise.

5. I have drawn attention to all matters, of which I am aware, which might adversely affect my opinion.
6. Wherever I have no personal knowledge, I have indicated the source of factual information.
7. I have not included or excluded anything which has been suggested to me by anyone, including those instructing me, without forming my own independent view of the matter.
8. I will notify those instructing me if, for any reason, I subsequently consider that the report requires any correction or qualification.
9. I understand that this report will be the evidence that I will give under oath, subject to any correction or qualification I may make before swearing to its veracity and I may be cross-examined on my report by a cross examiner assisted by an expert.
10. I have not entered into any agreement where the amount of payment of my fee is in any way dependant on the outcome of the case.

STATEMENT OF TRUTH

I confirm that I have made it clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Signed
Martin D Bircher FRCS
Consultant Orthopaedic Surgeon

Date:

2/5/2015