

Failed Lasik Surgery Ends in Litigation Success

HOCH v. TLC AND BRINT

While LASIK eye surgery is often an effective solution to the inconvenience of glasses, the procedure, which involves laser reshaping of the cornea, can lead to tragic results if pre-surgery screening or the procedure itself is not performed with proper care. West Palm Beach attorney and retired workers' compensation judge, Rand Hoch, learned the hard way that "guarantees" about the safety and effectiveness of LASIK surgery cannot always be relied upon.

Judge Hoch chose his surgeon carefully when he decided in 1998 to undergo laser correction of his nearsightedness. Following the recommendation of his local optometrist, Judge Hoch made an appointment with Dr. Stephen Brint, a LASIK pioneer and internationally preeminent ophthalmic surgeon. Dr. Brint was associated at the time with a chain of laser surgery clinics located throughout the country called The Laser Center, Inc. (TLC).

Using assembly-line-like procedures, TLC-employed optometrists oversaw initial testing procedures, pre-qualified patients for surgery, and then lined up surgical candidates upon whom Dr. Brint would fly in to operate. Surgery was performed on both of Judge Hoch's eyes on the same occasion.

By all accounts, Dr. Brint's surgical technique was flawless. By Dr. Brint's own candid admission, however, Judge Hoch never should have been operated on at all. The screening tests conducted by TLC and provided to Dr. Brint for review before surgery showed that Judge Hoch had a condition called keratoconus – irregularly shaped corneas – that disqualified him for LASIK surgery. Instead of improving Judge Hoch's vision, the surgery triggered a series of worsening vision problems that led to legal blindness in one eye that could only be improved – though not completely cured – by a corneal transplant. The need for at least one additional corneal transplant in the other eye is expected.

Attorneys Bill King and Jack Scarola filed suit on Judge Hoch's behalf against both TLC and Dr. Brint, who were separately insured and separately represented. Although Dr. Brint admitted for the first time at deposition that he had fallen below the generally accepted standard of care, TLC vigorously continued to contest liability, and both defendants challenged every element of Judge Hoch's damage claims. The defendants focused substantial attention on the fact that Judge Hoch had continued a very successful practice as a workers' compensation mediator and was earning more after his LASIK surgery than before.

Following more than three years of litigation involving some of the top LASIK and vision correction experts in the world, and with a lengthy trial scheduled to begin in just weeks, TLC agreed to pay \$900,000 to settle the portion of the case directed against it. Trial preparation for the case against Dr. Brint continued until a separate negotiated settlement was reached with Dr. Brint's liability insurance carrier. The amount of the second settlement is confidential.



Lance Block and Scott Carruthers,
Executive Director of the
Academy of Florida Trial Lawyers

Lance Block Honored by Krupnick Award

Attorney Lance J. Block was recently bestowed with the **Jon E. Krupnick Award** for the year 2003. The award was established in the year 2000 to annually recognize a trial lawyer champion. The award is designed to honor a lawyer whose efforts on behalf of a particular client reflect relentless commitment and perseverance, and the fortitude to seek justice in spite of whatever obstacles might be encountered. Jon E. Krupnick, the first recipient of the award, set a standard with his tenacity and professional excellence in representing a four-year-old child in a case that spanned 15 years. That case survived several difficult trials and appeals before Mr. Krupnick finally emerged victorious for his client. It was that effort that exemplified the concept that, through perseverance and relentless pursuit of justice, "...it is to the one who endures that the final victory comes."

Mr. Block was given the Jon E. Krupnick award for his work on the Godwin case, featured elsewhere in this issue of *Of Counsel*. The award is selected annually by the Board of Directors and is presented at the Academy of Florida Trial Lawyer's Annual Convention.