90011-6

No. 68924-0

Court of Appeals

Division I

Washington State

LEONARDO C. MARIANO, *pro se*

Appellant

v.

SWEDISH CARDIAC SURGERY

Respondent

P E T I T I O N F O R R E V I E W

Leonardo C. Mariano

1123 Rainier Av., # 415

Everett, WA 98201

(425) 317-0854

mariano.leonardo@ymail.com

February 10, 2014

T A B L E O F C O N T E N T S

TABLE OF CASES

WASHINGTON STATE

IDENTITY OF PETITIONER

The petitioner/Appellant is Leonardo C. Mariano, 82 years old, widower living alone and residing in 1123 Rainier Av., Unit 415, Everett, Washington State, 98201. After retiring from the Congress of the Philippines, as a career economist, he migrated to the United States in 1991. He was sponsored by his daughter who was born in Washington D.C. in 1969 when Petitioner was with the World Bank.

In 2011, Appellant filed a medical malpractice complaint against Swedish Heart Surgery, on claims of wrong diagnosis and unnecessary heart bypass. The trial court. after reconsideration, granted Swedish Motion for Summary Judgment, citing lack of "expert opinion". the Court of Appeals. after reconsideration, affirmed on ground of lack of "expert testimony".

Petitioner is representing himself in this case

This petition is asking the Supreme Court of Washington State to review the decision of the Court of Appeals.(Appendix A)

CITATIONS TO COURT OF APPEALS DECISIONS

Appellant respectfully requests the Supreme Court to review the November 25, 2011 decision of the Court of Appeals, especifically, the following citations are being submitted for review. Some appear to be in violation of the constitutionnal right of due process.

Page 1, 1st paragraph, re reason for dismissal.

Page 1, last paragraph and Page 2, first par., re name of expert witnesses.

Page 4, 1st par., re role of experts.

Page 4, last par., re identity of expert.

Page 5, 2nd par., re doctrine of *res ipsa loquitur.*

Page 5, last par. and page 6, 1st and 2nd par., re informed consent.

Page 6, last par., re CR 59.

Page 7, 1st par., re further continuances.

Page 7, 2nd par., re court saala proceeding.

Page 7, last par., re striking of exhibits.

The order of the Court of Appeals denying Appellant's Motion for Reconsideration dated February 9, 2014 contains no text. (Appendix B)

I S S U E S P R E S E N T E D F O R R E V I E W

A. Swedish rejected the Appellant's evidence, such as reports of medical tests, when they are considered admissible by laws and judicial rulings

B. Appellant was denied his constitutionall right of due process when Swedish imposed an arbitrary and self-serving condition which Appellant cannot meet.

C. The medical malpractice case requires only the support of alternative expert opinion.

D. Appellant was denied his constitutional right of due process when the trial judge adopted a rush-to-judgment approach.

E. General issues linked to the above four main issues.

S T A T E M E N T O F T H E C A S E

May 2, 2011 . Plaintiff Leonardo C. Mariano, *pro se,* filed a medical malpractice complaint against Swedish Cardiac Surgery.

November 23, 2011. Defendant's Motion for Summary Judgment filed.

March 2, 2012. The Superior Court granted Swedish Motion for Summary

Judgment.

April 2, 2012. The Superior Court denied Plaintiff's Motion for Reconsideration.

Novemer 25, 2013. The Court of Appeals affirmed the decision of the Superior Court to grant Defendant's Motion for Summary Judgment.

January 9, 2014. The Court of Appeals denied Appellant's Motion for Reconsideration.

February 8, 2014. Appellant filed a Petition for Review with the Supreme Court.

A R G U M E N T

Issue A : In its November 25, 2013 decision granting Swedish's Motion for Summary Judgment, the Court of Appeals ruled:

"*.... We affirm, holding that summary judgment was appropriate because Mariano failed to provide the required expert testimony for his claim*". (Page 1, ist paragraph, Appendix A)

With this decision, the court rejected the reports on medical interventions and tests done by Swedish and by the Everett Clinic (Appellant's caregiver) which were submitted as evidence in support of Appellant's medical malpractice claim. This is a **direct contradiction** with existing laws and judicial decisions as legal as shown below.

1. "*Medical records are generally relevant and admissible in a medical malpractice trial.*" Bell v. State, 147 Wn2d 166, 181, 52 P.3d 502 (2002)

2. "*Reports of lab test results contained in the physicians's medical file are admissible.*" RCW 5.45.020

3. "*The Plaintiff may obtain from the Defendant, testifying as an adverse witness, the required expert testimony.*" Douglas v. Freeman, 117 Wn.2d 242, 20. 814 P.2d 1160 (1991)

4. *"(Expert testimony) ... is not required when medical facts are observable by a layman's senses and describable without medical training."* McLaughlin v. Cooke, 112 Wn.2d 829,838, 774 P.2d 1171 (1989)

5 *"A malpractice case may be proved without the aid of expert testimony by a chain of circumstances from which an ordinary layman may reaspnable and naturally infer the ultimate fact required to be established."* Shellenbarger v. Brigman, 101, Wn.App.339, 347, 3 P.3 211 (2000)

Issue B: In relation to the First Issue, the Court of Appeals ruled in its November 25, 2013 decision:

" *Mariano failed to identify any expert who testify in support of his claims.....*" (Page 4, last par., Appendix A)

Here, "expert testimony" is a doctor who will testify in court. Medical consultants usually charge $ 500/hour, with indefinite number of hours. Appellant cannot afford to hire a consultlant since his only source of income is social security as shown in Exhibit C. Under this situaion, Swedish is unfairly exploiting to serve its interest the unfortunate circumstance of Appellant.

Issue C: In relation to the Second Issue on medical consultants, the Court of Appeals ruled:

" *the proper procedure for coronary arterial bypass surgery is far beyond the common understanding or expertise of a layperson."*

(Page 5, 2nd par., Appendix A)

Appellant strongly contends his medical malpractice complaint is a simple matter. What is being asked are yes-or-no answers to two claims. There are no medical parameters at all. And, the answers were provided by reports of medical test and procedure done by two cardiologists of Swedish

On the wrong diagnosis claim. In his letter summarizing the results of the diagnostic cardiac chaterization he conducted, Dr. John Pettersen wrote:

*" the best approach in this case is with direct coronary revascularization (bypass) and I have asked Dr. David Gartman to see Mr. Mariano for this procedure. ....now that I know the anatomy with the critical lesion in his **RIGHT** coronary artery that I suspect is the 'culprit lesion....."* Appendix D)

However, as the record shows, the heart bypass surgery was done on the **LEFT** artery:

"OPERATION: 1. Coronary artery bypass graft x 4 with LIMA (left internal mammary artery) to LAD (left anterior descending), ... to left ventricular extension branch...." (Appendix E)

In sum, the culprit and target of a bypass was the right artery. Why then was the left artery operated on? The answer is because the right artery was already hardened and therefore harmless as revealed by Dr. Gartman:

" .... The PDA and distal right coronary artery were so hard throught their length there was nothing I could do with those....." Appendix E)

Issue D: In its decision, the Court of Appeals ruled:

"....Mariano argues that he was denied due process at the summary judgment hearing because the hearing was too quick and was not

recorded. But Mariano's opening brief contains no authority in support of this claim." (Page 7, 2nd paragraph, Appendix A)

The Court erred in overlooking two cases submitted by Appellant as authority in treating the rush-to-judgment trial a constitutional concern. These are the opinions of the U.S. Court of Appeals Ninth Circuit:

" *.... we agree that the I J denied Cruz Renton a full and fair hearing in violation of the Due Process Clause .... and this prejudiced Cruz Renton's ability to present evidence..."* Rendon v. Holder, Jr., No. 06-70301, May 3, 2010."

The trial took only about 18 minutes, almost all consumed by the trial judge who expressed his doubt about Appellant's credentials. Hard of hearing, Appellant mistook the discourse as opening remarks, instead of reasons for, in effect, dismissing the case. (Ms. Elizabeth Cooper, Swedish attorney, was kind enough to inform the judge of Appellant's hearing problem. Two cases were scheduled at the same time, with the lawyers of the case already occupying the tables and chairs reserved for the two opposing parties. Worst, the proceeding was not recorded. (Ms. Cooper will confirm this narration.)

Isssue E: The six side-issues presented here elaborate on, and reenforce the arguments discussed in the above four main isisues.

1. Suppression of Documents.

Swedish released more than five years of the bypass surgery were two reports on the diagnostic cardiac catheterization (Appendix F) and esophaegal test.(Appendix G). The reports on the diagnostic cardiac catheterization and on the transesophageal procedure were mailed in April, 2011 and December, 2011, respectively.

Needless to state, these documents were favorable to Appellant. The catheterization showed "no critical stenosis in the main left artery and about 65% on the average in some parts of the smaller arteries. The transesophageal have normal findings in the chambers and valves of the heart, as well in the main left artery.

As stated in Issue **C** above, the bypass operation on the left artery was unnecessary because it was relatively healthy compared to the right artery. Also, no consent was given since Appellant was under sedation. (Details below)

2. Documents Stricken Off

In its decision affirming the grant of the summary judgment motion the Court of Appeals ruled:

> *" ... Swedish moved to strike the exhibits attached to Mariano's briefs on appeals, which primarily included magazine or internet articles dealing with bypass surgery. the motion is granted as to all exhibits that were not iicluded in the Clerk's papers orotherwise properly made a part of the record on appeals. RAP 9.12; 10.3(a)(8)"* (Appendix A)

Under this ruling, the reports on medical tests/ interventions are admissible since they are included in the Clerk's Papers. However, excluded are the exhibits and among them are an article from Mayo Clinic (Appendix H) and discovery materials such as interregatories, letters and emails.

Appellant now argues the Mayo Clinic medical advice is relevant. It has an excellent credential as one of the best in the field of cardiology; it has an objective outlook in solving problems of the heart, without reference in any case. In contrast, a hired medical consultant merely echoes the views of one who pays his bill.

The use of discovery materials has precedence; the Court of Appeals referred to interrogatory in opposing this medical malpractice case.(Page 1, last par., **Appendix A)**

3. Informed consent.

In its November 25, 2013 decision affirming the summary judgment motion, the Court of Appeals ruled:

> *"....Mariano also contends that Swedish did not secure his informed consent to the surgery. Specifically, Mariano alleges that he expressed his desire to pursue less invasive forms of treatment; that he was not informed of the risks of the operation; and that his consent was given under duress because he was 'still groggy from his diagnostic cardiac catheterization' when he signed the form."* (Page 5, last par. and page 6, 1st par., Appendix A)

In response to the above, Swedish pointed out that "a Plaintiff alleging breach of the duty to secure informed consent must prove: (a) the health care provider failed to inform the patient of a MATERIAL FACT..... RCW 7.70.050(1)" Page 6, 1st par.,**Appendix A)**

The consent form reads: "The medical procedure or surgery stated on this form, including the possible risks, complications, alternative treatment (including non-treatment and anticipted results was EXPLAINED by me to the patient. (Appendix I)

Swedish failed to inform Appelllant of such material fact; specifically, it will operate on the left , instead of the right ARTERY. It is because Appellant was UNDER ANAESTHESIA, in connection with the aborted bypass of the right artery. Appellant contends the unplanned decision to do bypass on the left artery (after finding that the diagnosed "culprit" right artery was already harmless) was definitely a MATERIAL FACT.

4. Statute of Limitation.

In a footnote, the Court of Appeals stated"

"Because the trial court properly dismissedMariano's complaint for failure to demonstrate material factors in dispute, we need not address whether his claims were also barred by the statute of limitation." (Page 2, footnote, Apppendix A.)

Appellant disagress and maintains that summary judgment is not warranted if there are issues under dispute. A glaring example is the statute of limitation which the Court of Appeals did not address. On the contrary, Appellant is now raising this issue.

The law provides that the prescribed period starts running NOT from the time of the bypass, but from the time doubts about the operation was DISCOVERED.

RCW 4.16.350 provides "*a discovery rule that can allow a medical malpractice action to be brought LATER THAN THE THREE-YEAR PERIOD".*

RCW 4.16..350(c) "*allows the action to be brought no later that ONE YEAR after 'the time te patient or his representative discovered or reasonably should have discovered that the injury or condition was caused by such action or omission'".*

In a letter dated October 30, 20009 to Dr. David Gartman, Swedish's heart surgeon, Appellant stated:

"the bypass operation was a success, a sincere thanks to you.....

The purpose of this letter is to seek your opinion ..... the bypass operation centered only the LEFT side of my heart. Yet, in a complete reversal, Dr. Petersen ..... pinpointed the RIGHT side as the 'culprit. **(Appendix J)**

Not receiving any response after 1 1/2 YEARS, Appellant mailed a second letter dated April 24, 2011 which reads:

"This is a follow-up of my letter dted October 30, 2009 (Attached A. According to the Post Office, this letter wa received by your office. .....

An answer to the issue raised is all I need to erase my doubts about the bypass. During the many years of my recovery, I had been at peace with the outcome. However, lately, after reading all the available reports on the operation, I am now uneasy." **(Appendix K)**

The complaint was filed in court on May 2, 2011, just a week after discovery Appellant had hoped to interrogate Dr. David Gartman on the right v. left bypass during deposition or trial. The deposition was aborted. A summary judgment trial precluded any confrontation.

5. Naming of an expert.

In its decision confirming summary judgment, the Court of Appeals ruled:

" In response to interrogatories, Mariano admitted, 'I have no expert/ medical witness at this time. I reserve my right to name some after discovery and during the trial.' He never named any such experts." Page 1, last par. and page 2, 1st par., Appendix A)

Contrary to above alegation, Appellant submitted the names of Dr. Harold Dash, Dr. Neale Smith and Dr. Frank Sheridan. In an email dated Decembeer 21, 2011, Appellant wrote:

"... Dr. Dash will be ready to be deposed in his office..... Dr. Neale

Smith needs a couple of months to recover from an organ transplant and Dr. Frank Sheridan is on one-month vacation.....". Appendix L)

6. Request for Continuance.

In its decision confirming summary judgment, the Court of Appeals ruled:

" the records indicates that the trial court continued the hearing for more than two months at Mariano's request. Mariano did not move for any further continuances."

This allegation is baseless. Among numerous emails back and forth, two will be mentioned. In Appendix L, last pragraph, Appellant asked for a 2-month extension.

However, it was denied, as well with others. In (Appendix M, Swedish wrote:

> *" .... if you provide me with the name of an expert witness supporting your claim at any time prior to the hearing, I will likely strike the hearing until the deposition of your expert can occur."*

Appellant wishes to emphasize this: Swedish did not strike the hearing not only inspite of Appellant being able to submit a name, as required, but more, because the named expert was ready to be disposed. Swedish did not call Dr. Dash. This is a continuation of a pattern of obstructions Swedish had employed to hide the truth.

At this stage, a decision of the U.S. Court of Appeals declared very recently may come to play in the resolution of this medical malpractice case.

" .... we conclude that the I J abused his discretion in denying Malilia's continuance request because I J failed to follow the BIA's guideline when considering the request..." Malilia v. Holder, Jr., No. 05-77397, February 3, 2011.

C O N C L U S I O N

Defendants usually utilize summary judgment (aka Motion to Dismiss) to win a case, expecially against *pro se* plaintiffs. In this medical malpractice case, Swedish did it. The reason cited for summary judgment is lack of evidence, or precisely a medical expert who is willing to testify. Appellant could not afford to hire this kind of expert. Then, Swedish filed a Motion for Summary Judgment EARLY, 90 days before end of discovery, giving Appellant not enough time to search for other options. Appellant asked for continuance but Swedish demanded the name of a witness first. It was a vicious cycle.

Appellant hoped to argue its case, in full and without restrictions, with the Court of Appeals. However, in a disorganized 18-minute trial, a fair and full hearing was not possible. Unlike in the trial court, the Court of Appeals spelled out its reasons for the affirmation in a 8-page decision. This Petition for Review is a paragraph-by-paragraph response.

Appellant respectfully prays that decision in this case be made now, not on whether the summary judgment motion is appropriate but whether the claims of wrong diagnosis and unnecessary bypass have merits.

LEONARDO C. MARIANO, *pro se*

Appellant

February 10, 2014

PROOF OF SERVICE

On February 10, 2014, Appellant priority- mailed to the Court of Appeals his Petition for Review by the Supreme Court of Washington State. Copies were mailed to the following:

Hon. Richard D. Johnson, Commissioner
Court of Appeals, Division 1
One Union Square, 600 University St.
Seattle, WA 98101

Ms. Pamela Andrews/Ms. Beth Cooper
Andrews - Skinner, P.S.
645 Eliot St., S-350
Seattle, WA 98119

I hereby declare under penalty of perjury under the laws of the State of Washington that the above is true and correct.

DATED February 10, 2014 at Everett, Washington State.

LEONARDO C. MARIANO, *pro se*
Appellant

A P P E N D I X

A

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

LEONARDO C. MARIANO, Appellant,	)	No. 68924-0-I
	)	DIVISION ONE
v.	)	
SWEDISH CARDIAC SURGERY, Respondent.	)	UNPUBLISHED
	)	FILED: November 25, 2013

Cox, J. — Leonardo Mariano appeals the summary judgment dismissal of his medical malpractice and informed consent claims against Swedish Cardiac Surgery.[1] We affirm, holding that summary judgment was appropriate because Mariano failed to provide required expert testimony for his claims.

On April 4, 2006, Mariano underwent a quadruple coronary artery bypass graft procedure at Swedish Medical Center. On May 2, 2011, Mariano filed this lawsuit against Swedish, alleging medical malpractice and failure to obtain his informed consent to the surgery. The complaint was based on Mariano's belief that a bypass of his left coronary artery was unnecessary. Mariano argued that he suffered damages from the procedure, including a lengthy recovery period, lack of appetite, difficulty hearing, negative impacts on his employment opportunities and social life, and "writer's block."

The parties conducted discovery. In responding to interrogatories, Mariano admitted, "I have no expert/medical witnesses at this time. I reserve my

[1] Swedish asserts that "Swedish Cardiac Surgery" is merely a division of Swedish Medical Center, not an independent legal entity subject to suit. We are unable to address this argument on the record before us. We adopt the naming conventions of the parties and refer to the respondent as "Swedish."

right to name some after discovery and during the trial." He never named any such experts.

Swedish moved for summary judgment, arguing that Mariano's complaint should be dismissed because he had not identified any expert support for his claims. The trial court granted summary judgment in favor of Swedish. Mariano moved for reconsideration. When the trial court denied Mariano's motion, it clarified its order granting summary judgment:

> Summary Judgment was granted on March 2, 2012 on the grounds that Plaintiff did not have the required [evidentiary] support for his claims. In addition his claims are barred by the statute of limitations, which expired April 2009.[2]

Mariano appeals.

EXPERT TESTIMONY

A defendant can move for summary judgment by showing that there is an absence of evidence to support the plaintiff's case.[3] If the defendant shows an absence of evidence to establish the plaintiff's case, the burden then shifts to the plaintiff to set forth specific facts showing a genuine issue of material fact for trial.[4] While we construe all evidence and reasonable inferences in the light most favorable to the nonmoving party, if the plaintiff "fails to make a showing sufficient

---

[2] Clerk's Papers 42.

[3] Young v. Key Pharm., Inc., 112 Wn.2d 216, 225-26 n.1, 770 P.2d 182 (1989) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 325, 106 S. Ct. 2548, 2552, 91 L. Ed. 2d 265 (1986)).

[4] Young, 112 Wn.2d at 225.

to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial," summary judgment is proper.[5] The plaintiff may not rely on mere speculation or unsupported assertions, facts not contained in the record, or inadmissible hearsay.[6] This court reviews summary judgments de novo.[7] We review the denial of a motion for reconsideration for abuse of discretion.[8]

Actions for damages occurring as a result of health care are controlled exclusively by statute, regardless of how the claim is characterized.[9] There are three bases for such a claim:

> (1) That injury resulted from the failure of a health care provider to follow the accepted standard of care;
>
> (2) That a health care provider promised the patient or his or her representative that the injury suffered would not occur; [or]
>
> (3) That injury resulted from health care to which the patient or his or her representative did not consent.[10]

RCW 7.70.020 defines hospitals as health care providers. Mariano's complaint is based on the first and third bases.

---

[5] Jones v. Allstate Ins. Co., 146 Wn.2d 291, 300, 45 P.3d 1068 (2002); Young, 112 Wn.2d at 225 (quoting Celotex, 477 U.S. at 322).

[6] Higgins v. Stafford, 123 Wn.2d 160, 169, 866 P.2d 31 (1994).

[7] Michael v. Mosquera-Lacy, 165 Wn.2d 595, 601, 200 P.3d 695 (2009).

[8] Rivers v. Washington State Conf. of Mason Contractors, 145 Wn.2d 674, 685, 41 P.3d 1175 (2002).

[9] RCW 7.70.030; Branom v. State, 94 Wn. App. 964, 969, 974 P.2d 335 (1999).

[10] RCW 7.70.030.

To establish medical malpractice, Mariano must prove that Swedish "failed to exercise that degree of care, skill, and learning expected of a reasonably prudent health care provider at that time in the profession or class to which he or she belongs, in the state of Washington, acting in the same or similar circumstances" and that the "failure was a proximate cause of the injury complained of."[11] Only experts are permitted to testify regarding the standard of care and whether the physician met that standard.[12] "What is or is not standard practice and treatment in a particular case, or whether the conduct of the physician measures up to the standard is a question for experts and can be established only by their testimony."[13] The policy behind this rule is to "prevent laymen from speculating as to what is the standard of reasonable care in a highly technical profession."[14] If a plaintiff fails to produce competent expert testimony, the defendant is entitled to summary judgment.[15]

Here, Mariano failed to identify any expert who would testify in support of his claims that the treatment he received at Swedish fell below the applicable standard of care. As a result, Swedish was entitled to judgment as a matter of law.

---

[11] RCW 7.70.040.
[12] Young, 112 Wn.2d at 228.
[13] Young, 112 Wn.2d at 228-29 (quoting Hart v. Steele, 416 S.W.2d 927, 932, 37 A.L.R.3d 456, 462 (Mo.1967)).
[14] Douglas v. Bussabarger, 73 Wn.2d 476, 479, 438 P.2d 829 (1968).
[15] Morinaga v. Vue, 85 Wn. App. 822, 832, 935 P.2d 637 (1997).

Mariano argues that expert testimony is not required where an ordinary person could reasonably infer the ultimate fact required to be established. In the alternative, Mariano argues, the evidence he presented is sufficient to entitle him to an inference of negligence established by the doctrine of res ipsa loquitur.

Mariano's arguments fail. For res ipsa loquitur to apply, the following three criteria must be met: "(1) the accident or occurrence that caused the plaintiff's injury would not ordinarily happen in the absence of negligence, (2) the instrumentality or agency that caused the plaintiff's injury was in the exclusive control of the defendant, and (3) the plaintiff did not contribute to the accident or occurrence."[16] It is true that "expert medical testimony is not necessary if the questioned practice of the professional is such a gross deviation from ordinary care that a lay person could easily recognize it."[17] But the proper procedure for coronary artery bypass surgery is far beyond the common understanding or expertise of a layperson. And without knowing the professional standard of care for a health care provider conducting such a surgery, a layperson would not be able to infer negligence from Swedish's actions.

Mariano also contends that Swedish did not secure his informed consent to the surgery. Specifically, Mariano alleges that he expressed his desire to pursue less invasive forms of treatment; that he was not informed of the risks of

[16] Curtis v. Lein, 169 Wn.2d 884, 891, 239 P.3d 1078 (2010).
[17] McLaughlin v. Cooke, 112 Wn.2d 829, 838, 774 P.2d 1171 (1989).

the operation; and that his consent was given under duress because he was "still groggy from his diagnostic cardiac catheterization" when he signed the form.

A plaintiff alleging breach of the duty to secure informed consent must prove:

> (a) the health care provider failed to inform the patient of a material fact or facts relating to treatment; (b) the patient consented to treatment without being aware of or fully informed of such facts; (c) a reasonably prudent patient under similar circumstances would not have consented given such information; and (d) the treatment in question proximately caused injury to the patient.[18]

Expert testimony is required to establish the nature and character of the treatment proposed and administered; the risks and benefits to such treatment; and any possible alternative forms of treatment.[19] As with his medical malpractice claim, Mariano has provided no expert testimony in support of his claim. As a result, Mariano has not met his burden to set forth specific facts showing a genuine issue of material fact for trial.[20]

Mariano also failed to establish any of the grounds under CR 59(a) justifying a reconsideration of the trial court's order. The trial court did not abuse its discretion in denying reconsideration.

---

[18] RCW 7.70.050(1).
[19] RCW 7.70.050(3).
[20] Because the trial court properly dismissed Mariano's complaint for failure to demonstrate material facts in dispute, we need not address whether his claims were also barred by the statute of limitations.

OTHER ISSUES

Mariano argues that the trial court erred in failing to continue the summary judgment hearing so that he could conduct discovery. But the record indicates that the trial court continued the hearing for more than two months at Mariano's request. Mariano did not move for any further continuances. Furthermore, Mariano had almost a year from the date of the filing of his complaint to conduct discovery before his complaint was dismissed.

Finally, Mariano argues that he was denied due process at the summary judgment hearing because the hearing was too quick and was not recorded. But Mariano's opening brief contains no authority in support of this claim. This court will not consider arguments for which the appellant has cited no authority.[21] While this court is mindful of Mariano's pro se status, pro se litigants are held to the same standard as attorneys and must comply with all procedural rules on appeal.[22]

MOTION TO STRIKE

Swedish moved to strike the exhibits attached to Mariano's briefs on appeal, which primarily included magazine or Internet articles dealing with bypass surgery. The motion is granted as to all exhibits that were not included in the clerk's papers or otherwise properly made a part of the record on appeal.[23]

---

[21] RAP 10.3(a)(6); State v. Bello, 142 Wn. App. 930, 932 n.3, 176 P.3d 554 (2008).
[22] Batten v. Abrams, 28 Wn. App. 737, 739 n.1, 626 P.2d 984 (1981).
[23] RAP 9.12; 10.3(a)(8).

We affirm the summary judgment order.

Cox, J.

WE CONCUR:

Spearman, A.C.J.

Ian, J.

B

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

LEONARDO C. MARIANO, Appellant, v. SWEDISH CARDIAC SURGERY, Respondent.	No. 68924-0-I ORDER DENYING MOTION FOR RECONSIDERATION

Appellant, Leonardo Mariano, has moved for reconsideration of the opinion filed in this case on November 25, 2013. The panel hearing the case has considered the motion and has determined that the motion for reconsideration should be denied. The court hereby

ORDERS that the motion for reconsideration is denied.

Dated this 9th day of January 2014.

For the Court:

Cox, J.

Judge

Your New Benefit Amount

1106138

C

BENEFICIARY'S NAME: LEONARDO C MARIANO

Your Social Security benefits will increase by 1.7 percent in 2013 because of a rise in the cost of living. **You can use this letter when you need proof of your benefit amount to receive food, rent, or energy assistance; bank loans; or for other business.** Saving this letter could save you the inconvenience of making a trip to a local office and waiting in line to obtain a new document.

How Much Will I Get And When?

• Your monthly amount (before deductions) is	$335.00
• The amount we deduct for Medicare medical insurance is (If you did not have Medicare as of Nov. 15, 2012 or if someone else pays your premium, we show $0.00.)	$0.00
• The amount we deduct for your Medicare prescription drug plan is (If you did not elect withholding as of Nov. 1, 2012, we show $0.00.)	$0.00
• The amount we deduct for voluntary Federal tax withholding is (If you did not elect voluntary tax withholding as of Nov. 15, 2012, we show $0.00.)	$0.00
• After we take any other deductions, you will receive on Jan. 3, 2013.	$335.00

If you disagree with any of these amounts, you must write to us within 60 days from the date you receive this letter. We would be happy to review the amounts.

You may receive your benefits through direct deposit, a Direct Express® card, or an Electronic Transfer Account. If you still receive a check, please remember that you must switch to an electronic payment by March 1, 2013. For more information, please visit ***www.godirect.org*** or call **1-800-333-1795**.

1106138

What If I Have Questions?

Please visit our website at ***www.socialsecurity.gov*** for more information and a variety of online services. You also can call **1-800-772-1213** and speak to a representative from 7 a.m. until 7 p.m., Monday through Friday. Recorded information and services are available 24 hours a day. Our lines are busiest early in the week, early in the month, as well as during the week between Christmas and New Year's Day; it is best to call at other times. If you are deaf or hard of hearing, call our TTY number, **1-800-325-0778**. If you are outside the United States, you can contact any U.S. embassy or consulate office. Please have your Social Security claim number available when you call or visit and include it on any letter you send to Social Security. If you are inside the United States, and need assistance of any kind, you also can visit your local office.

3809 BROADWAY
EVERETT WA

SOCIAL SECURITY
3809 BROADWAY
EVERETT WA 98201

Social Security Administration
Supplemental Security Income

Notice of Change in Payment

Date: November 25, 2012
Claim Number: 578-72-9037 AI

113280 1 AT 0.374 0489 LTR TM4 B39 1118
922 12S1069D95211
LEONARDO C MARIANO
APT 415
1123 RAINIER AVE
EVERETT WA 98201-5423

*0301I3M5B136936*NOTAFP X3.I6S06EEN.OTH.R121118.PAM 000000000 00036106356306827192982015-42315

We are writing to tell you about changes in your Supplemental Security Income (SSI) payments. The rest of this letter will tell you more about this change.

We explain how we figured the monthly payment amount on the worksheet(s) at the end of this letter. The explanation shows how your income, other than any SSI payments, affects your SSI payment. We include explanations only for months where payment amounts change.

Information About Your SSI Payments

- The amount due you beginning January 2013 will be $395.00.
- The amount due you is being raised because the law provides for an increase in Supplemental Security Income payments in January 2013 if there was an increase in the cost-of-living during the past year.
- The amount due you as shown above is the amount we would send each month if we were not recovering an overpayment. We will continue to withhold $10.00 each month until the overpayment of $842.16 remaining after January 2013 is recovered. Your payment will be $385.00 beginning January 2013. Please get in touch with any Social Security office if you disagree with the rate of withholding or if you prefer to make refund.

Your Payment Is Based On These Facts

Our records show that the following income used to figure your payment has also changed--

See Next Page

SEATTLE HEART CLINIC | A Member of the Swedish Heart Institute

3/30/06

D

March 30, 2006

John Lank, MD
Everett Clinic
3901 Hoyt Ave
Everett WA 98201

FILE BY 201

RE: MARIANO, Leonardo C.

John V. Olsen, M.D.
John L. Petersen, M.D.
David E. Panther, PA-C

801 Broadway
Suite 808
Seattle, WA 98122-4328
(206) 292-7990
Fax (206) 292-4882

Dear Dr. Lank:

We did proceed with diagnostic cardiac catheterization studies on Mr. Mariano. He has three-vessel disease that is of some significance and, in addition, has very calcified vessels and torturous vessels.

I think the best approach in this case is with direct coronary revascularization, and I have asked Dr. David Gartman to see Mr. Mariano for this procedure.

He did have some chest pain simply by walking around on the floor after the procedure, and I have kept him in the hospital perhaps even until the surgery. These symptoms are not a great deal different than they have been over the last two months, but now that I know the anatomy with the critical lesion in his right coronary artery that I suspect is the "culprit" lesion, I feel uncomfortable with having him outside of the hospital. I have started him on Lovenox as will as nitro paste

I will keep you posted regarding the additional therapies.

Best regards,

John L. Petersen, MD/wc01/04

E

OPERATION DATE: 04/04/2006

SURGEON: DAVID M GARTMAN MD
ASSISTANT: TRACI REE PA-C

PREOPERATIVE DIAGNOSIS:
Diffuse triple-vessel coronary artery disease.

POSTOPERATIVE DIAGNOSIS:
Diffuse triple-vessel coronary artery disease.

OPERATION:
1. Coronary artery bypass graft x 4 with LIMA (left internal mammary artery) to LAD (left anterior descending), SVG (saphenous vein graft) to diagonal, sequential SVG (saphenous vein graft) to OM (obtuse marginal) to left ventricular extension branch.
2. Endoscopic harvest of greater saphenous vein of the left thigh.

ANESTHESIOLOGIST: Lori Heller, MD.

FINDINGS: The coronary arteries were very extensively diseased with very hard calcific atherosclerotic disease, making it very difficult to work with. The PDA and distal right coronary artery were so hard throughout their length, there was nothing I could do with those. The left internal mammary artery was a good conduit as was the vein harvested from the left thigh endoscopically. There was a moderate amount of mitral regurgitation present by transesophageal echocardiogram.

PROCEDURE: The patient was taken to the operating room, placed supine on the operating room table. After adequate general endotracheal anesthesia, and insertion of appropriate lines and catheters, the patient was prepped and draped in the usual sterile fashion.

A median sternotomy was performed. The pericardium was opened in the midline. The left internal mammary artery was taken down and prepared. Simultaneously vein was harvested from the left thigh endoscopically and the wounds closed.

The pericardium was opened in the midline. The patient was heparinized and the ascending aorta and right atrium were cannulated. Cardiopulmonary bypass was instituted. Systemic hypothermia was employed. A crossclamp was placed across the ascending aorta. Cold blood cardioplegic solution was delivered into the ascending aortic root and repeated at routine intervals throughout the procedure. The left ventricular extension branch was opened and an end-to-side anastomosis with a segment of vein was performed of this. This was brought around the left side of the heart and a diamond side-to-side anastomosis to the mid obtuse marginal was performed. This was then trimmed to the length of the ascending aorta. The third lateral branch of the diagonal was opened and an end-to-side anastomosis with a segment of vein was performed to his, there was trimmed to an appropriate length to the ascending aorta. The LAD was opened to its distal 1/3 and an end-to-side anastomosis with the left internal mammary artery was performed. The two proximal anastomoses with the segments of vein were performed with the ascending aorta with running 6-0 Prolene suture and were marked with radiopaque tapes the crossclamp was removed from the aorta. After allowing a period of reperfusion and rewarming, the patient was easily weaned from cardiopulmonary bypass. The venous cannula was removed. Protamine was administered and the arterial cannula was removed. Two temporary ventricular pacing wires were inserted. Chest tube was inserted in the left pleural space and two in the retrosternal space. The sternum was closed with stainless steel wire. Fascia, subcutaneous tissues, and skin were closed with multiple layers of Surgidac and Biosyn.

FINAL SPONGE AND NEEDLE COUNTS: Correct.

DAVID M. GARTMAN, MD #

DMG:04/04/2006 13:22:00
cmc40/dmg:04/07/2006 10:44:45
550816 602863

cc: JOHN L PETERSEN, MD #
TRACI REE, PA-C #

F

SWEDISH
HEART & VASCULAR INSTITUTE

SWEDISH CARDIAC SURGERY
1600 E. Jefferson, Suite 110
Seattle, WA 98122
T 206.320.7300
F 206.320.4698

Dear Mr. Mariano 4/27/2011

As Dr. Gartman talked to you about your cath report, I am mailing this report to you. If you have any questions feel free to call me or make an appointment to see Dr. Gartman.

Sincerely,

Nina Shah, RN.

Hospital Encounter

Leonardo C Mariano (MRN 1000706484)

All Notes

Procedures filed by N-A Conversion at 12/07/07 1628

Author: N-A Conversion Service: (none) Author Type: (none)
Filed: 12/07/07 1628 Note Time: 03/30/06 1224

OPERATION DATE: 03/30/2006

OPERATOR: J L PETERSEN, MD
ASSISTANT:

PROCEDURE:
1. Left coronary arteriogram.
2. Left ventricular angiogram.
3. Closure device using StarClose was provided.

DESCRIPTION OF PROCEDURE: After signed consent was obtained, the patient was brought to the cardiac catheterization laboratory and prepped and draped in the usual manner. Via the right femoral artery entrance site and using Seldinger technique, a #4 left selective coronary catheter was advanced through a 6 French sheath after a one-wall stick was provided.

Numerous injections were performed with just digital filming. We then exchanged for a #4 right selective coronary catheter, which was advanced to the ascending aorta. The right coronary system was cannulated and numerous injections performed using just digital filming. This catheter was replaced by a pigtail left ventricular catheter, which was advanced to the ascending aorta. Left ventricular cavity was cannulated. Left ventricular angiogram was performed in the RAO projection only. All catheters were removed.

The patient tolerated the procedure well and was returned to the floor in stable condition, after we visualized the right femoral artery and a StarClose closure device was used.

Cardiac fluoroscopy reveals moderate calcification involving the proximal left main and the first half of the anterior descending circumflex system and essentially the entire right coronary system to its bifurcation distally.

Cardiac hemodynamics demonstrate normal left ventricular end diastolic pressure with no gradient at the aortic valve.

SELECTIVE CORONARY ARTERIOGRAM:
Left Main: Moderate calcification in its lumen but no critical stenoses.

Left Anterior Descending: A 50 to 60% narrowing right at its origin and then it extends to the first septal perforator and just beyond the first septal perforator, a bifurcation of a diagonal branch with significant involvement of the two bifurcation branches of this diagonal system. These are

relatively mature vessels, 2.5 mm in size. The anterior descending then extends. In its midsection it has a patulous area, which is almost aneurysmal followed by an 85 to 90% mid section stenosis. It has luminal plaquing throughout its vessel to the apex, but wraps around the apex in a dominant manner and is a rather mature left anterior descending system.

The diagonal system, particularly its superior branch, has an 85 to 90% stenosis over about 1.5 to 2 cm length.

Circumflex: Essentially a trifurcation marginal system although it has its origin within the first few millimeters of the circumflex system–that is a 2.5 mm vessel, and has 50 to 60% luminal plaquing in its proximal third. The obtuse marginal branch then extends to the posterior lateral service area and it has in its proximal third, a 50 to 60% stenosis. This serves as a collateralization with competitive flow to the distal portion of the right coronary system. In the distal runoff, the circumflex vessels have no other critical stenotic zones identified.

Right coronary artery: Heavily calcified throughout its coursing and an 85 to 90% stenosis beyond the acute marginal. *Proximally about an 80% stenosis within the first 2 cm of its* coursing. It then extends to the posterior descending and posterior left ventricular extension system with a posterior left ventricular extension system being very well developed, and no other critical stenoses are identified in those areas or at its bifurcation into the posterior descending and posterior left ventricular extension system.

LEFT VENTRICULAR ANGIOGRAM (RAO projection only) Normal. There is maybe perhaps slight hypocontractile properties of a small area in the inferior apical area compared to the anterior wall in the mid and distal portion of the inferior wall. There is trivial mitral regurgitation.

Visualization of the right femoral artery reveals appropriate sheath location and StarClose device was placed.

CLINICAL IMPRESSION:
1. Coronary heart disease with three vessel involvement.
2. Retained systolic left ventricular performance.
3. Successful StarClose closure was provided.

JOHN L PETERSEN, MD #

JLP:03/30/2006 12:24:58
lvs:03/30/2006 12:45:33
547848 597345

cc:

G

Andrews • Skinner, P.S.
Attorneys at Law

645 Elliott Ave. W., Ste. 350
Seattle, WA 98119
Tel: 206-223-9248 • Fax: 206-623-9050

Liz Curtis
Legal Asst. to Beth Cooper
liz.curtis@andrews-skinner.com

December 5, 2011

Leonardo C. Mariano
1123 Rainier Ave, #415
Everett, WA 98201

Re: *Mariano v. Swedish Cardiac Surgery;*
Cause No. 11-2-15733-4 SEA

Dear Mr. Mariano:

Enclosed please find a disc of your medical records pursuant to Beth's email to you dated December 2, 2011. These records are a copy of your complete chart as maintained by Swedish. Thank you.

Very truly yours,

Liz Curtis
Legal Asst. Beth Cooper

BC

ENCLOSURE

Swedish Medical Center

Unit	Name	MRN	Adm Date	Att Prov	DOB	Sex
F 3SW	Mariano, Leonardo C	1000706484	4/3/06	David M Gartman, MD	7/20/1931	M

Procedures filed by N-A Conversion at 12/07/07 1630

Author:	N-A Conversion	Service:	(none)	Author Type: (none)	
Filed:	12/07/07 1630	Note Time:	04/04/06 1258		

PERIOPERATIVE TRANSESOPHAGEAL REPORT

PATIENT: MARIANO, LEONARDO HOSPITAL NUMBER: 578729037
DATE OF BIRTH: 07/20/1931 DATE OF STUDY: 04/04/2006
AGE: 74Y VIDEO TAPE NUMBER:

INDICATIONS: Ventricular function and valvular assessment.

OPERATION: CABG x 4.

PROBLEMS:
1. Diabetes.
2. Hypertension.
3. Systolic murmur.

PRE-CARDIOPULMONARY BYPASS FINDINGS:
PERICARDIUM: The pericardium is normal. There is no effusion present.
TRICUSPID VALVE: There is mild central tricuspid regurgitation.
RIGHT ATRIUM: Right atrial size is normal.
RIGHT VENTRICLE: Right ventricular systolic function is normal. Right ventricular size is normal.
PULMONIC VALVE: Normal.
INTERATRIAL SEPTUM: There is no evidence of patent foramen ovale by color flow Doppler. Interatrial septum is intact.
MITRAL VALVE: Redundancy is seen in both leaflets, particularly at the tips of the anterior leaflets. The coaptation point is displaced superiorly, although no overt prolapse is noted. There is a central and eccentric jet which is posteriorly directed. There is moderate mitral regurgitation. Inspection of the pulmonary veins shows systolic blunting.
LEFT ATRIUM: Left atrial size is normal. There are no masses present.
LEFT VENTRICLE: Left ventricular systolic function is normal, with an estimated ejection fraction of 60%. There is mild left ventricular hypertrophy, with a measured posterior wall thickness of 14 mm. Left ventricular chamber size is normal.

There are no regional wall motion abnormalities.

INTERVENTRICULAR SEPTUM:
AORTIC VALVE: The aortic valve is trileaflet. There is no significant stenosis or regurgitation. Leaflet cusps are mildly thickened.
ASCENDING AORTA/AORTIC ARCH: There is no significant atherosclerosis present. It is grade 1.
DESCENDING AORTA: There is mild atherosclerosis present, grade

2.

Preoperative Summary:
1. Preserved left ventricular systolic function, with an estimated ejection fraction of 60%.
2. No regional wall motion abnormalities.
3. Mild left ventricular hypertrophy (14 mm).
4. Moderate mitral regurgitation, with both central and eccentric components to the regurgitant jet. The eccentric jet is directed posteriorly. Redundancy is noted in both leaflets, particularly the tips of the anterior leaflet. The coaptation point of the mitral valve is displaced superiorly, although no overt prolapse is noted. Systolic blunting is seen in the pulmonary veins.
5. Mild tricuspid regurgitation.
6. No left atrial enlargement or right atrial enlargement.
7. Normal right ventricular function.

POST-CARDIOPULMONARY BYPASS FINDINGS:
PERICARDIUM: Unchanged.
TRICUSPID VALVE: Tricuspid regurgitation remains mild in severity.
RIGHT ATRIUM: Normal.
RIGHT VENTRICLE: Unchanged, with normal right ventricular function.
INTERATRIAL SEPTUM: Normal.
MITRAL VALVE: The mitral regurgitant jet is now severe. Both the central and the eccentric components are larger than preoperative examination.
LEFT ATRIUM: Normal.
LEFT VENTRICLE: Left ventricle is hyperdynamic, with an estimated ejection fraction of 70%. No regional wall motion abnormalities.
AORTIC VALVE: Unchanged.
ASCENDING AORTA/AORTIC ARCH/DESCENDING AORTA: Unchanged.

Postoperative Summary:
1. Hyperdynamic left ventricle, with an estimated ejection fraction of 70%.
2. No regional wall motion abnormalities.
3. Mitral regurgitation, now severe. Both central and eccentric jets are significantly larger than preoperative examination. Severity is confirmed through analysis of PISA, vena contracta and flow in the pulmonary venous system.
4. Remainder of examination unchanged.

Preoperative findings were discussed with the patient's cardiologist, Dr. John Petersen, who requested that no intervention be performed on the mitral valve.

LORI B. HELLER, MD #

LBH:04/04/2006 12:58:39
sdg:04/04/2006 13:43:07
550817 600266

cc:DAVID M. GARTMAN, MD #
JOHN L PETERSEN, MD #

H

MAYO CLINIC

Coronary bypass surgery

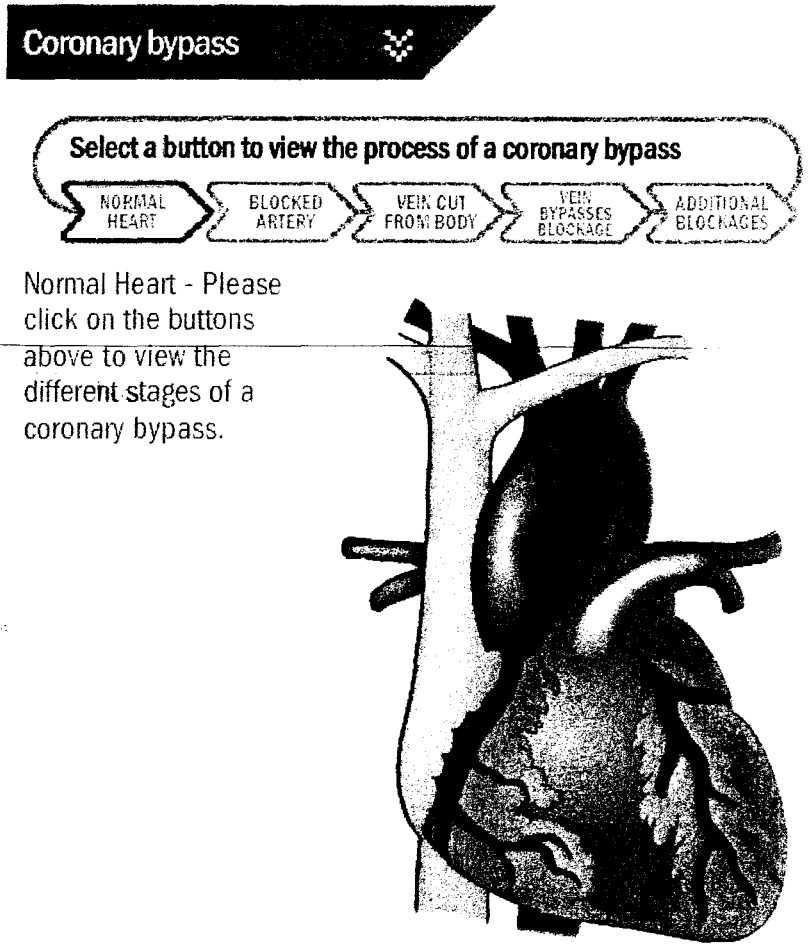
By Mayo Clinic staff

Original Article: http://www.mayoclinic.com/health/coronary-bypass-surgery/MY00087

Definition

Coronary bypass surgery is a procedure that restores blood flow to your heart muscle by diverting the flow of blood around a section of a blocked artery in your heart. Coronary bypass surgery uses a healthy blood vessel taken from your leg, arm, chest or abdomen and connects it to the other arteries in your heart so that blood is bypassed around the diseased or blocked area. After a coronary bypass surgery, normal blood flow is restored. Coronary bypass surgery is just one option to treat heart disease.

Coronary bypass surgery can help reduce your risk of having a heart attack. For many people who have coronary bypass surgery, symptoms such as chest pain and shortness of breath are reduced after having the surgery.



Why it's done

You and your doctor can consider whether coronary bypass surgery or another artery-opening procedure, such as angioplasty or stenting, is right for you.

Coronary bypass surgery is an option if:

- You have severe chest pain caused by narrowing of several of the arteries that supply your heart muscle, leaving the muscle short of blood during even light exercise or at rest. Sometimes angioplasty and stenting will help, but for some types of blockages, coronary bypass surgery may be the best option.
- You have more than one diseased coronary artery and the heart's main pump — the left ventricle — is not functioning well.
- Your left main coronary artery is severely narrowed or blocked. This artery supplies most of the blood to the left ventricle.

How you prepare

To prepare for coronary bypass surgery, your doctor will give you specific instructions about any activity restrictions and changes in your diet or medications you should follow before surgery. You'll need several presurgical tests, often including chest X-rays, blood tests, an electrocardiogram and a coronary angiogram. A coronary angiogram is a special type of X-ray procedure that uses dye to visualize the arteries that feed your heart. Most people are admitted to the hospital the morning of the surgery. Coronary bypass surgery may also be performed in emergency situations, such as a heart attack.

Be sure to make arrangements for the weeks following your surgery. It will take about four to six weeks for you to recover to the point where you can resume driving, return to work and perform daily chores.

What you can expect

During the procedure

Coronary bypass surgery generally takes between three and six hours and requires general anesthesia. On average, surgeons repair two to four coronary arteries. The number of bypasses required depends on the location and severity of blockages in your heart.

Most coronary bypass surgeries are done through a large incision in the chest while blood flow is diverted through a heart-lung machine (called on-pump coronary bypass surgery).

The surgeon cuts down the center of the chest, along the breastbone. The surgeon then spreads open the rib cage to expose the heart. After the chest is opened, the heart is temporarily stopped and a heart-lung machine takes over to circulate blood to the body.

The surgeon takes a section of healthy blood vessel, often from inside the chest wall (the internal mammary artery) or from the lower leg, and attaches the ends above and below the blocked artery so that blood flow is diverted (bypassed) around the narrowed portion of the diseased artery.

There are other newer surgical techniques your surgeon may use if you're having coronary bypass surgery:

- **Off-pump or beating-heart surgery.** This procedure allows surgery to be done on the still-beating heart using special equipment to stabilize the area of the heart the surgeon is working on. This type of surgery is challenging because the heart is still moving. Because of this, it's not an option for everyone.
- **Minimally invasive surgery.** In this procedure, a surgeon performs coronary bypass through a smaller incision in the chest, often with the use of robotics

PATIENT: _____ Patient No.: [redacted]

Washington State law guarantees that you both have the *right* and *obligation* to make decisions concerning your health care. Your physician can provide you with the necessary information and advice, but as a member of the health care team, you must enter into the decision making process. This form has been designed to acknowledge your acceptance of treatment recommended by your physician.

1. I hereby authorize Dr. DAVID GARTMAN and/or such associates, assistants or designees, including medical residents in training as may be selected by said physician to treat the following condition(s) which has (have) been explained to me: *(Explain the nature of the condition(s) in professional and lay language.)*

Blocked heart blood vessels (coronary artery disease)

2. The procedures planned for treatment of my condition(s) have been explained to me by my physician. I understand them to be: *(Describe procedure to be performed in professional and lay language.)*

coronary artery bypass graft

At: Swedish Medical Center First Hill

3. I recognize that, during the course of the operation, post operative care, medical treatment, anesthesia or other procedure, unforeseen conditions may necessitate additional or different procedures than those above set forth. I therefore authorize my above named physician, and his or her assistants or designees, to perform such surgical or other procedures as are in the exercise of his, her or their professional judgment necessary and desirable. The authority granted under this paragraph shall extend to the treatment of all conditions that require treatment and are not known to my physician at the time the medical or surgical procedure is commenced.

4. I have been informed by my physician that there are significant risks such as severe loss of blood, infection and cardiac arrest that can lead to death or permanent or partial disability, which may be attendant to the performance of any procedure. I acknowledge that no warranty or guarantee has been made to me as to result or cure.

5. FULL DISCLOSURE
I certify that my physician has informed me of the nature and character of the medical procedure or surgery described on this form, including its possible significant risks, complications and anticipated results; and the alternative forms of treatment, including non-treatment and their significant risks, complications and anticipated results.

6. LIMITED DISCLOSURE to be signed by patient if patient elects not to be informed.
I certify that my physician has explained to me and I have the right to have clearly described to me the nature and character of the proposed medical procedure or surgery described on this form, including its possible significant risks, complications and anticipated results, and the alternative forms of treatment, including non-treatment, and their significant risks, complications and anticipated results.
I do not wish to have these risks and facts explained to me.

_____
PATIENT/OTHER LEGALLY RESPONSIBLE PERSON SIGN IF APPLICABLE

7. I consent to the administration of anesthesia by my attending physician, by an anesthesiologist, or other qualified party under the direction of a physician as may be deemed necessary. I have been informed by my physician and understand that all anesthetics involve risks of complications and serious possible damage to vital organs such as the brain, heart, lung, liver and kidney and that in some cases may result in paralysis, cardiac arrest and/or brain death from both known and unknown causes.

8. I consent to the transfusion of blood and blood products as deemed necessary. I understand that all blood and blood products involve risks of a reaction, bruising, fever, hives, and in rare circumstances infectious diseases such as hepatitis and HIV/AIDS. I understand that precautions are taken by the Puget Sound Blood Center in screening donors and in matching blood for transfusion to minimize risks.

9. Any tissues or parts surgically removed may be disposed of by the hospital or physician in accordance with accustomed practice. Any biological specimens, such as tissue, blood, bodily fluids, etc. may be disposed of or used for medical study, medical procedure or in research.

PHYSICIAN'S STATEMENT: The medical procedure or surgery stated on this form, including the possible risks, complications, alternative treatments (including non-treatment) and anticipated results, was explained by me to the patient or his/her representatives before the patient or his/her representatives consented.

PHYSICIAN'S SIGNATURE _____ DATE _____ TIME _____

PATIENT OR PATIENT REPRESENTATIVE'S ACKNOWLEDGMENT: I acknowledge that I have read (or have had read to me) and fully understand the above consent, the explanations referred to were made and all blanks or statements requiring insertion or completion were filled in before I affixed my signature.

SIGNATURE OF PATIENT OR PATIENT REPRESENTATIVE [redacted] DATE 03/30/06 TIME 3:45 PM

WITNESS ACKNOWLEDGMENT: I acknowledge that I, as witness, have identified the above individual and have observed his/her signature on this document.

WITNESS SIGNATURE _____ DATE 3-30-06 TIME 3:45 pm

NAME PLATE
578729037 03/30/06
MARIANO, LEONARDO
MARIANO, LEONARDO M
PETERSEN, JOHN L
IPR CATH POSO60RR-10333

SWEDISH MEDICAL CENTER
SEATTLE, WASHINGTON
BALLARD CAMPUS, FIRST HILL CAMPUS, PROVIDENCE CAMPUS

S-#21 (01/05) FV

SPECIAL CONSENT TO OPERATION, POST OPERATIVE CARE, MEDICAL TREATMENT, ANESTHESIA, OR OTHER INVASIVE PROCEDURE

J

October 30, 2009

Dr. David M. Gartman
Swedish Cardiac Surgery
Seattle, WA 98122

On April 4, 2006, I had a heart bypass done by you. Now, tests at the Everett Clinic show my heart condition is in good shape, except for a mild mitral valve leakage, thus ruling out any heart problem as the cause of my current shortness of breath (mild to moderate). So, the bypass operation was a success, a sincere thanks to you.

The purpose of this letter is to seek your opinion on matters affecting my other health problems. Specifically, how accurate and reliable are laboratory tests, seen from my experience with the heart bypass and compared with other tests on my lungs, thyroid, stomach acid reflux and mild celiac aneurysm. Should I accept these findings at face value? Please treat this as consultation, covered by my medicare/medicaid insurance.

Annex A shows that the bypass operation centered only on the left side of my heart. Yet, in a complete reversal, Dr. Petersen (Annex B, catheterization) and Dr. Sheridan of Everett Clinic (Annex C, CT scan) pinpointed the right side as the "culprit", which was the main reason why a bypass was deemed necessary.

1. Since some arteries on the right side were completely damaged and must have occurred decades ago ("silent heart attack"), were they nonissues in my chest pain and shortness of breath before the bypass operation?
2. What major damages in the left side of my heart did you find and fix during the operation? Below were the relatively minor damages inaccurately reported by Dr. Sheridan and not contradicted by Dr. Petersen:
   - 10 - 20 % distal lesion in the left main coronary artery,
   - 20 - 30 % lesion in the LAD, in the ostial to proximal portion,
   - 70 - 80 % lesion in the left circumflex, in the first obtuse marginal of the proximal portion.
3. Assuming Dr. Sheridan found no damage at all in the right side of my heart, are the three minor damages in the left side of my heart listed above (without factoring new damages discovered later during the bypass) enough reason to call for a heart operation?

At age 78 and as an economist by profession (Philippine Congress, World Bank, United Nations), I look at problems in depth from an analytical angle, with primary focus on empirical data. I hope you understand why I am overly cautious in accepting medical tests without second and third opinions.

Leonardo C Mariano

LEONARDO C. MARIANO (578-72-9037)
(425) 317-0854
(425) 275-7364

K

April 24, 2011

Dr: David M. Gartman
Swedish Cardiac Surgery
1600 E. Jefferson St. Ste. 110
Seattle, WA 98122

Attn: Nina

This is a follow-up of my letter dated October 30, 2009 (Attached A). According to the Post Office, this letter was received by your office.

An answer to the issue raised is all I need to erase my doubt about the bypass. During the many years of my recovery, I had been at peace with the outcome. However, lately, after reading all the available reports on the operation, I am now uneasy. I tried to get the comments of some doctors but was given only vague answers with the advice that doctors do not comment on the performance of their fellow doctors.

Again, I wish to emphasize that I am not aware of any problem about the quadruple bypass. . Your response to my 2009 letter, although late, will clear the air.

LEONARDO C. MARIANO

1123 Rainier Av., # 415
Everett, WA 98201

(425) 317-0854

Print

12/21/11

Subject: More updates on Dr. Dash.

From: Leonardo Mariano (mariano.leonardo@ymail.com)

To: Beth.Cooper@andrews-skinner.com;

Date: Wednesday, December 21, 2011 10:27 AM

Ms. Cooper,

As shown in the first attachment, Dr. Dash will be ready to be deposed in his office and at his own time since his role as President of Everett Clinic takes much of his time. All he can say in this deposition is that he and I discussed my 2006 bypass part of the time during my doctor visits for 5 years, much of which served as medical inputs in my complaint. If your question will include whether he was opposed to the bypass, he needs to read the final reports of the catherization and CABG. For that he needs more time. I am inclined to name him as my primary witness and I will pay his fees for at least 2 hours. (See second atachment.)

I have two other witnesses who need no further studies since they advised me not to go through with the bypass in 2006. What they need is time: Dr. Neale Smith needs a couple of months to recover from an organ transplant and Dr. Frank Sheridan is on a one month vacation to end Jan. 19, 2012.

I therefore request that either you or I (preferably you) ask for a 2-month continuance. For me, it is only 1 month since I will be in the Philippines on my rescheduled family reunion.

Thank you.

Leonardo Mariano

M

From: Beth Cooper <Beth.Cooper@andrews-skinner.com>
To: Leonardo Mariano <mariano.leonardo@ymail.com>
Cc: Liz Curtis <Liz.Curtis@andrews-skinner.com>
Sent: Thursday, December 8, 2011 3:53 PM
Subject: RE: Update on Dr. Dash.

Mr. Mariano,

Thank you for this information. As I previously stated, if you provide either an appropriate declaration from a supporting expert witness, or a scheduled date for the deposition of your proposed expert, I will continue the motion for summary judgment. I will not be communicating further on this issue. If you have new information please feel free to provide it.

Regards,
BETH COOPER

Beth Cooper
Andrews • Skinner, P.S.
645 Elliott Ave. W., Ste. 350
Seattle, WA 98119
Tel: 206-223-9248
Email: beth.cooper@andrews-skinner.com