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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON
No. 317269

CATHLEEN LECAIRE AND RANDALL LECAIRE, Appellants

Vs.

RODERICK W. TATARYN, and JANE DOE TATARYN, individually and
as husband and wife, and RODERICK W. TATARYN, DDS, MS, PS,
a Washington Corporation, dba RODERICK ENDODONICS,
Respondents

APPELLANT'S REPLY

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REPLY BRIEF OF APPELLANT

TABLE OF CONTENTS

- A. Introduction

- B. Argument
 - 1. Statement of the case by defendant
 - a. Buccal infiltration vs. Intra-pulpal
 - b. Additional anesthetic
 - 2. Burdens of Proof in Health Care Negligence Lawsuits
 - 3. Withdrawal of Robb Grangroth

- C. Conclusion

A. INTRODUCTION

The appellants will show that various passages in the defendant's brief are in error and will continue to explain how a proper standard of care was not given by the defendant.

B. ARGUMENT

1. A. In the defendant's reply on page 2, the defendant states "Therefore, Dr. Tataryn performed a buccal infiltration (otherwise known by the misnomer of an intrapulpal "injection") of Septocaine 4%." The appellants state that this is an incorrect statement. A buccal infiltration is an injection into the cheek which is the "rinse" the defendant talks about. An intra-pulpal injection is the injection of a local anesthetic agent directly into pulpal tissue under pressure and is also known as a nerve block. According to

Dr. Tataryn's own notes on January 21, 2009, it reads "...1c lido 2%, 1:100,000, 3c septo 4% 1:100,000 (2 **intra-pulpal**)..." It is reasonable to go by the defendant's own notes because those are his own words on what was done to the appellant.

B. The defendant also noted that he had to use additional anesthetic because the appellant's gums were inflamed. However, using the guidelines that the drug maker put out, the defendant went over recommended dosages on the drug Septocaine. If the court believes the defendant's claim that his notes were a "misnomer" for infiltration, then according to the drug manufacturer, he should not have used more than 2.5 mL of the drug on the high end of usage (low end was 0.5 mL). Each cartridge of Septocaine holds 1.7 mL of the drug and according to his notes; he used 3 cartridges which equals 5.1 mL which is over **double** the recommended dosage. If he used the drug as his notes states without using the "misnomer" and only the correct interpretation of intra-pulpal, then he still used 5.1 mL when the most the recommended dosage for intra-pulpal is 3.4. And according to the manufacturer's own notes in the postmarketing experience section, it states the following, "Persistent paresthesias of the lips, tongue, and oral tissues have

been reported with use of articaine hydrochloride, with slow, incomplete, or no recovery. These postmarketing events have been reported chiefly following nerve blocks in the mandible and have involved the trigeminal nerve and its branches.”

2. The defendants also referenced burden of proof in medical malpractice lawsuits. The appellants have issued several doctors’ diagnosis, along with Dr. Leon Assael, their expert they attempted to replace Dr. Chan with, but were turned down incorrectly by the trial court. The appellants have met the burden of proof. The appellants also state that if the definition of a correct standard of care had been followed, this lawsuit would have never become a necessity. In legal terms, standard of care is defined as the level at which the average, prudent provider in a given community would practice. Therefore, it is reasonable to believe that the average, prudent provider would understand and explain the risks of the drug, in this case, Septocaine, to the patient. By giving the appellant more than the recommended dosage of Septocaine, damage was done to the V3 nerve which has seriously altered the appellant’s ability to enjoy life due to the pain suffered on a daily

basis. The doctor's consent form that the appellant signed does not cover the risks of the anesthesia used.

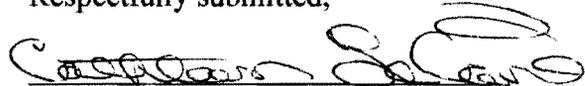
3. Regarding the dismissal of the appellant's lawyer, Robb Grangroth, the defendants speak of the ability to object to his withdrawal within 10 days of his filing. It is reasonable to expect one's attorney to know all the laws and rules of the court that would affect them. It is not reasonable to expect an average, intelligent citizen who is not involved with the law other than to try to be law-abiding to know every law and rule of the court. This is why lawyers are hired and it is reasonable to expect to be informed of any rules which would affect that citizen. Therefore, when Mr. Grangroth wanted to withdraw as a lawyer and informed the appellants that it would be better to fire him instead of have him withdraw, they followed a lawyer's advice, not understanding or having been advised of the rules of the court. Had they been advised, the outcome of this issue would certainly have been different.

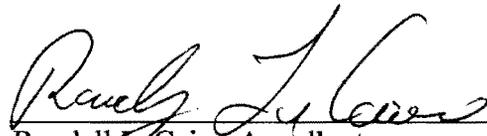
C. CONCLUSION

The appellants state that there were errors committed in the trial court and which they are asking the appeals court to correct. The appellants continue to seek relief from the pain that was caused by this dental injury and only ask for what is fair and right.

September 29, 2013

Respectfully submitted,


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