

December 28, 2018

# Hospital sued for leaving medical device in patient's chest

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The lawsuit against Palm Beach Gardens Medical Center and a cardiologist claimed the tip of a catheter, ruptured balloon were left inside the plaintiff in a failed angioplasty.

WEST PALM BEACH — **Palm Beach Gardens Medical Center** and one of its cardiologists are hoping to reduce a \$1 million verdict they were ordered to pay a 64-year-old former Riviera Beach man **who convinced a jury that** his heart was injured during a botched procedure.

In the last month, attorneys for the hospital and cardiologist Dr. Duccio Baldari have filed motions asking Palm Beach County Circuit Judge Lisa Small to **reduce the amount a jury** on Nov. 30 awarded investment banker and bond trader Kenneth Kunhardt Jr., who now lives in New Hampshire.

## **Prominent JFK heart surgeon fights for life as family sues hospital**

Kunhardt's lawsuit said he had a heart attack and was forced to undergo heart bypass surgery in 2013 after Baldari left a tip of a catheter and a ruptured balloon inside Kunhardt during a failed angioplasty. The medical device was discovered by a doctor who performed the double bypass surgery, according to the lawsuit.

While Kunhardt's attorneys have asked Small to throw out the verdict and order a new trial, they said Friday that they are generally satisfied with the outcome of the month-long trial.

## **Family seeks millions from obstetrician, ultrasound clinics after son born with disabilities**

“It was a seven-figure verdict that we’re definitely proud of,” said attorney Jonathan Gdanski, who represents Kunhardt.

“It’s hard to get a med mal verdict. It’s hard to get a med mal verdict in Palm Beach County,” agreed attorney Scott Schlesinger, who also represents Kunhardt. “It wasn’t a home run but it was definitely a solid double.”

The main disappointment was that jurors failed to award Kunhardt any money for lost wages, Schlesinger said. Such a finding along with others was “contrary to the manifest weight of the evidence,” attorney Bryan Hofeld wrote in the motion for the new trial.

Meanwhile, attorneys representing the hospital and Baldari are asking Small to reduce the verdict by roughly \$319,000. Since Kunhardt’s insurer paid \$98,000 for his treatment, he didn’t pay the \$417,000 the jury awarded him for past medical expenses. Kunhardt shouldn’t receive “a windfall and double recovery for medical expenses” he didn’t incur, attorneys Harry Cutler and Michael Petruccelli claim.

Baldari is also asking Small to force Kunhardt to pay for his legal expenses. Before trial, Baldari offered to settle the matter for \$150,000. Since the jury found the physician 5 percent responsible he will only be forced to pay \$50,000. Under a Florida law that is aimed at encouraging people to reach out-of-court settlements, people can recoup their legal costs if the verdict is at least 25 percent less than a settlement offer.

Attorney Crane Johnstone, who also represents Kunhardt, said the settlement offer came on the eve of trial. That means that even if Baldari is awarded legal fees it will only be for the limited amount he spent during the trial — not the amount he spent since being sued in 2014.

Further, Johnstone said, Kunhardt’s legal team will seek the roughly \$200,000 they spent on expert witnesses and other expenses.

During the trial, attorneys representing the hospital and Baldari argued that it is rare for a catheter to break and that Kunhardt was likely to have a heart attack even if the angioplasty had been successful. Evidence also indicated that nurses, not Baldari, were to inspect the catheter after it was inserted to make sure it was intact.

Gdanski said Kunhardt has recovered and returned to work. “He’s made a pretty decent recovery,” Gdanski said. “Still, he’s now forever at risk for future cardiac events.”