

III. Court Reverses Clinic's Trial Win Over Fatal Blood Clot

By **Lauraann Wood**

Law360 (July 22, 2019, 3:36 PM EDT) -- A woman whose husband died after a blood clot traveled to his lung should be able to seek damages against the treatment facility she accused of scheduling an untimely follow-up appointment, despite a jury's finding against her, an Illinois state appeals court found Friday.

The court reversed the judgment entered after a state court jury sided with Rezin Orthopedics and Sports Medicine SC and doctor Stephen Treacy. Plaintiff Susan Steed's trial evidence "overwhelmingly" supported her theory that Rezin's receptionists failed to schedule her husband Glenn Steed's follow-up appointment within two weeks, as they'd been ordered, a unanimous three-judge panel ruled.

The panel said the jury shouldn't have entered judgment on the verdict and should have instead granted Steed's motion for judgment against the facility. Steed established that the facility's receptionists should have followed the scheduling orders written on her husband's bill, it said.

"All the evidence as to Rezin Orthopedics' negligence so overwhelmingly favors plaintiff that no verdict for defendant could ever stand," the panel said.

Treacy wanted to see Glenn Steed within two weeks of his visit for a torn Achilles tendon on Feb. 17, 2009, according to the panel's unpublished order. He received a cast for his leg two days later, but the receptionist who scheduled his follow-up set it for more than three weeks later on March 13, according to the order. A different receptionist bumped his appointment up by one day after Steed called about discomfort in his leg, but he died March 8, 2009, after suffering a pulmonary embolism, according to the panel's order.

Rezin argued entering judgment against it despite the jury's verdict would go against trial evidence proving it was within applicable standards to schedule Steed's follow-up appointment within four weeks of his casting. But the panel disagreed, saying it would use that standard only if his wife was challenging the verdict for Treacy.

That question applied to Treacy "would involve consideration of the professional standard of care," the panel said. But reviewing the verdict in regard to the clinic "requires the assessment of a general standard of care based on a reasonably careful orthopedic facility," it held.

"That standard of care was established by plaintiff, and defendant presented no evidence to refute it," the panel said.

Martin Lucas of Miroballi Durkin & Rudin LLC, who represents Steed, told Law360 on Monday that he and his client are "thrilled" with the panel's ruling.

"We felt very strongly that the trial court should have granted our motion for a directed finding," he said. "The evidence was very clear that the doctor had given them an order to follow and they didn't follow it, which resulted in a large gap in time before bad things started to happen."

Representatives for Rezin and Treacy did not immediately respond Monday to a request for comment.

Judges Tom Lytton, William Holdridge and Vicki Wright sat on the panel for the Appellate Court of Illinois.

Steed is represented by Martin Lucas and Lauren Levin of Miroballi Durkin & Rudin LLC.

Rezin and Treacy are represented by Stephen Rehfeldt and Marcelline DeFalco of Mulherin Rehfeldt & Varchetto PC.

The case is Susan Steed v. Rezin Orthopedics and Sports Medicine SC et al., case number 3-17-0299, in the Appellate Court of Illinois, Third District.

--Editing by Orlando Lorenzo.