



Watson v. Landmark Urology (Ky. S. Ct.)

Topics Covered: Professional Liability, Tort Reform

Issue

The issue in this case is whether a written explanation of the pertinent medical risks was sufficient to secure informed consent.

AMA Interest

Medical liability reform is a high legislative priority for the AMA, and the AMA opposes lawsuit abuse against physicians.

Case Summary

Charmin Watson complained of urinary incontinence. Her urologist recommended surgical implantation of a mesh sling. Prior to the surgery, the urologist noted in her medical chart that she discussed the possible complications with Watson. The notes did not specify which complications were discussed. Prior to the surgery, Watson signed a consent form, which described the general nature of the surgery and listed various risks.

About a year later, Watson sought an evaluation from another urologist. This second urologist discovered that the implanted mesh sling had eroded into Watson's urethra and bladder, requiring reconstructive surgery.

Watson and her husband sued the first urologist and the urologist's practice group, claiming that she had not given her informed consent to the surgery. During their depositions, both Watson and the urologist testified that they had generally discussed the risks associated with the surgery, but they did not recall exactly what was said.

The defendants moved for summary judgment, and the trial court held that Watson had the burden of proving a lack of informed consent. Further, it found, the signed consent form on its face conveyed the risks associated with the surgery. It entered summary judgment for the defendants. Watson and her husband appealed.

The Court of Appeals affirmed, and the Watsons appealed to the Kentucky Supreme Court.

Litigation Center Involvement

The Litigation Center and Kentucky Medical Association filed a brief with the Kentucky Supreme Court in support of the defendants and in support of the sufficiency of the informed consent.

Kentucky Supreme Court Brief