

[2002] All ER (D) 459 (May)

Chapman v Oxford Radcliffe Hospitals NHS Trust

Queen's Bench Division

Douglas Brown J

29 May 2002

Medical practitioner – Negligence – Duty to take care – Advice – Claimant undergoing operation to insert titanium plate into skull – Plate becoming infected – Plate removed leaving claimant with skull deficit – Claimant alleging infection causing seizures and neurological dysfunction – Claimant alleging consultant neurosurgeons not advising him as to risks associated with operation – Whether claimant receiving proper advice – Whether defendant negligent.

As a result of an operation to remove a large meningioma from the brain, and a subsequent cranioplasty which became infected, the claimant had a large bone defect in the skull. In November 1996, he underwent an operation to insert a titanium plate in his skull. That operation was performed by C, a consultant neurosurgeon. In January 1997, as a result of infection developing, the titanium plate was removed, leaving the claimant with a large skull deficit. The claimant issued proceedings alleging that C, and A, another consultant neurosurgeon who had advised him prior to the operation, had failed to advise him of the risks of the operation, in particular that they had failed to advise him of the risk of infection, and that they had wrongly advised him that the insertion of the titanium plate was his only option. The claimant contended that as a result of the infection he had suffered seizures and neurological dysfunction. The defendants denied liability. Both C and A gave evidence to the effect that they had discussed the risks of the operation with the claimant, including the risk of infection, and denied having told the claimant that the insertion of the titanium plate was his only option.

The court ruled:

On the evidence, C and A were able and careful clinicians who had given the claimant proper advice. Moreover, to have advised the claimant that the insertion of the titanium plate was his only option would have been seriously wrong advice, and it was inconceivable that both surgeons would have made that same error. Accordingly, the claim would fail.

David Pittaway QC and Evelyn Pollock (instructed by Shoosmiths) for the claimant.

Stephen Miller QC and Zoe Taylor (instructed by Beachcroft Wansbroughs) for the defendant.