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Dentist drops tool in throat, \$675K accord

Blocking device not used, man swallows hole-drilling device

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A man who required surgery after his dentist dropped a tool down his throat has settled his lawsuit for \$675,000.

The agreement came Tuesday in plaintiff Janus Pawlowicz's lawsuit. He and his wife Barbara sued dentist Beata Kozar-Warchalowska and Des Plaines-based Gentle Dental Services Ltd. in 2015, alleging Kozar-Warchalowska failed to use proper protective materials during a root-canal procedure, causing a tool to fall down his throat and lodge in his stomach in October 2014.

"He was awake, but he was under a local anesthetic in his mouth," said Rob L. Kohen, an associate at Salvi, Schostok & Pritchard P.C. who represented Pawlowicz.

At one point during the procedure, Kohen said, Kozar-Warchalowska stopped to look around her work area because she realized she misplaced the barbed broach she'd been using.

Similar in looks to a screwdriver, it's a cutting device used to shape and enlarge holes.

She showed her patient a

similar tool to the one she was using and told him to tell her if he found it, he said.

"[The tools] are used to dig at the canal with wider and wider broaches to open the hole to get to the canal to do whatever repair [dentists] need to do," Kohen said. "You can imagine — it's sharp enough that it's drilling through the gum and the canal in your mouth — what that would do in your stomach and your intestine."

Kozar-Warchalowska finished the procedure without finding the broach, Kohen said, and she told Pawlowicz she would notify him if she couldn't find it. She also told him to visit a hospital emergency room if he began to experience any pain, he said.

Pawlowicz began feeling abdominal pain, bloating and cramping in the days leading up to his follow-up appointment with Kozar-Warchalowska, Kohen said. He reported the discomfort to his dentist when he arrived at the appointment, he said, and she told him to see a doctor.

Pawlowicz received X-rays from his primary care physician, the results of which showed a metal object in his stomach.

He underwent surgery to remove the tool nine days after it was initially dropped, Kohen said, but he required a second surgery to remove parts of his small intestine because of a bowel obstruction.



Rob L. Kohen

"Whenever you do that kind of surgery, [patients are] left with some adhesions in [their] stomach," he said. "There's a risk that he may need adhesion repair surgery in the future."

Pawlowicz also faces dietary restrictions he'll likely have to follow with for the rest of his life, Kohen said. Pawlowicz filed the lawsuit in Cook County Circuit Court in April 2015.

"The standard of care in this case requires that any dentist that performs a root canal use a dental dam," Kohen said. "The obvious reason for that is that it prevents this exact thing where instruments that are dropped accidentally are being ingested."

Roger Littman, a partner at Hughes, Socol, Piers, Resnick & Dym Ltd. who represented the defendants, could not be reached for comment.

Kohen said the parties had

completed depositions from both the plaintiff and defendant and were preparing to start taking those of Pawlowicz's treating physicians when the defense asked to begin settlement negotiations.

"I think that [Kozar-Warchalowska] had a hard time explaining how this happened, why it happened, and essentially their defense was you didn't need a dental dam and it was an accident," he said.

The parties mediated their case before former Cook County circuit judge Thomas L. Hogan. The parties didn't immediately settle but reached an agreement about a week later, Kohen said.

He said his clients are pleased with the result of their case, though they'd trade all of their money if it meant they wouldn't have had to endure the incident at all.

"They are just very kind, nice and very gentle people. They didn't want any of this. Nobody wants to be in this situation," he said.

"I think they're happy to have this part of their lives over with. Now that they have this settlement, they can try to move on and enjoy the rest of their lives the way that they should have been before this happened."

Managing equity partner Patrick A. Salvi also represented Pawlowicz.

The case is *Janus Pawlowicz, et al., v. Gentle Dental Services, Ltd., et al.*, 15 L 3984.