

Missouri Lawyers

W E E K L Y

Jury awards woman after doctor removed her healthy kidney



Genevieve Nichols

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A unanimous St. Louis County jury awarded a woman \$240,000 after a doctor removed her healthy kidney because he suspected cancer.

The award against Dr. J. Perry Lovinggood and his practice was about one-third of what plaintiff's attorney Genevieve Nichols asked for her client, Kathleen Bishop. Bishop was 57 in 2012 when Lovinggood removed one of her kidneys after a defect showed up on an image of the kidney.

"The thrust of their defense was she should be happy she doesn't have cancer," Nichols said.

The treating radiologist and pathologist said they raised suspicions of cancer; the doctor turned the suspicions into 100 percent certainty, Nichols said. More testing would have made the diagnosis surer, she said.

Defense attorney Jim Neville didn't return phone calls by press time. Lovinggood, who couldn't be reached by press time, denied negligence in an answer to the lawsuit signed by Neville. In a deposition, the doctor suggested that he may have knocked off a cancerous mass during a biopsy, according to a description of the testimony in a plaintiff's motion to exclude evidence.

Plaintiff's attorneys said that statements about that theory would be "unreliable and speculative." St. Louis County Circuit Judge Barbara Wallace agreed to exclude them from the trial.

At the defense's request, Wallace also excluded any evidence or reference to any other malprac-

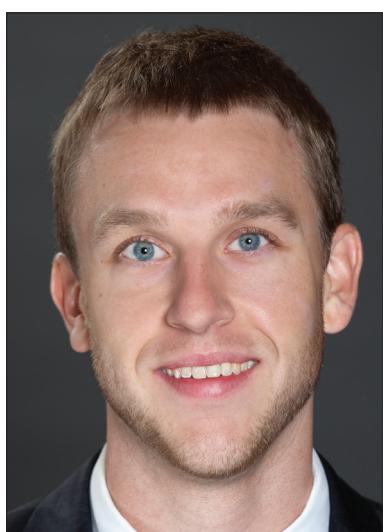
tice claims or lawsuits against Lovinggood and his practice, Metropolitan Urological Specialists.

Two settled cases against Lovinggood were featured in a 2010 St. Louis Post-Dispatch investigative article on doctor discipline and medical errors. In one incident, he removed a patient's sole healthy kidney and left the diseased one in place. A claim against him and his practice was settled confidentially for about \$1.7 million, according to the Dec. 12, 2010, article. Another lawsuit over Lovinggood's handling of surgery on a man's testicles settled confidentially.

At the time of the article, the state Board of Registration for the Healing Arts had never disciplined Lovinggood, the newspaper said. Attorneys for Bishop anticipated that he or his expert might offer testimony that he had never had his license disciplined, they said in their motion to exclude evidence. Wallace also sustained their request to keep that information out of trial.

It took Bishop, who is now 60, about a year to bounce back entirely after her surgery, Nichols said. Bishop has an adult daughter with disabilities and a farm for stray animals. She also volunteers with Imperial-based Ride On St. Louis, a therapeutic horse-riding program for people with disabilities. She wasn't employed at the time of the surgery and didn't have a lost wages claim, Nichols said.

Bishop's kidney function is normal, but she's at an increased risk for ultimately needing dialysis or a transplant and undergoes yearly blood testing, Nichols said. ■



Adam Henningsen

\$240,000 Verdict

MEDICAL MALPRACTICE

- **Venue:** St. Louis County Circuit Court
- **Case number/date:** 13SL-CC01280/Oct. 30, 2014
- **Judge:** Barbara Wallace
- **Plaintiff's expert:** Dr. Simon Chung, Fairfax, Virginia (urology)
- **Defendants' expert:** Dr. Sam Bhayani, St. Louis (urology)
- **Special damages:** \$60,000 past economic and medical damages; \$60,000 past non-economic damages; \$60,000 future medical damages; \$60,000 future non-economic damages
- **Insurance:** General Star (for both defendants)
- **Caption:** Kathleen Bishop v. Dr. James Perry Lovinggood and Metropolitan Urological Specialists
- **Plaintiff's attorneys:** Genevieve Nichols and Adam Henningsen, Coffey & Nichols, St. Louis
- **Defendants' attorney:** Jim Neville, Neville, Richards & Wuller, Belleville, Illinois