

No. 31314 – *Rebecca M. Arbogast and Kevin Mark Arbogast v. Mid-Ohio Valley Medical Corp., a corporation, dba Mid-Ohio Valley Urgent Care*

FILED

December 3, 2003

**RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

McGraw, Justice, dissenting:

The majority correctly holds that Mid-Ohio negligently breached the standard of care when a medical technician employed there extracted blood from Appellee Rebecca Arbogast's left arm on March 26, 1996. As a direct result of the technician's negligence, Appellee Rebecca Arbogast immediately developed a large hematoma on her left arm, along with pain and numbness in her left hand and arm. Following surgery performed in an attempt to alleviate some of the pain and numbness caused by the negligently-performed blood draw, Appellee Rebecca Arbogast developed complex regional pain syndrome.

Experts for both Appellees and Mid-Ohio agreed that surgery would not have been necessary had the blood draw not have caused injury to Appellee Rebecca Arbogast's arm. It is horn book law that there may be more than one proximate cause of an injury. In the instant case, the trial judge saw clearly that Appellee Rebecca Arbogast's complex regional pain syndrome sprang from Mid-Ohio's negligence and, even viewing the evidence in the light most favorable to Mid-Ohio, that no *reasonable* trier of fact could have concluded otherwise.

Therefore, for the reasons stated, I respectfully dissent.