

# Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

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## *Penis Amputation Verdict Coverage World Exclusive*

**Medical Negligence - An adult plaintiff complained of penis pain and went in for a circumcision – he woke up from the surgery, his urologist having amputated his penis – the man sued and alleged a lack of informed consent – the urologist replied that the penis was significantly diseased with a rare and aggressive cancer and the penile amputation saved the man's life**  
*Seaton v. Patterson*, 08-624

Plaintiff: Kevin George, Louisville

Defense: Clayton L. Robinson,  
*Robinson & Epling*, Lexington

Verdict: Defense verdict on liability

Court: **Shelby**, J. Hickman,  
8-24-11

Phillip Seaton, then age 61 and a truck driver, had a history of pain in his penis. He consulted with a urologist, Dr. John Patterson in the fall of 2008 about this condition. Patterson recommended and Seaton consented to the performance of a circumcision. In signing the consent form, Seaton agreed to all procedures deemed medically necessary. [Seaton cannot read and the consent document was read to him.]

The surgery was begun and once Patterson removed the foreskin, he encountered an unexpected complication. Seaton's penis was highly diseased with a rare and aggressive cancer – the head of the penis looked like cauliflower. There was proof penis cancer is especially dangerous because it spreads quickly to the lymphatic system. Patterson amputated part of Seaton's penis, believing it was a life-saving surgery of sorts.

When Seaton awoke, he felt differently about the procedure. He had no recollection that amputation of his penis was a complication of circumcision. In fact, he recalled that he joked with Patterson about the surgery before it was performed. Since these events, Seaton is described as angry and depressed, his manhood having been taken from him.

In this lawsuit, Seaton sued Patterson and alleged the amputation violated the limits of his consent form. An expert for

Patterson, Dr. David Benson, Urologist, noted that men are very attached to their penises and that Seaton should have been consulted. The heart of the plaintiff's case focused that (1) it was Seaton's penis and he had a right to decide if it was removed or not, and (2) there was no emergency that necessitated its immediate removal. Had Patterson stopped the procedure and consulted with Seaton (and his wife), this misadventure would have been avoided. If prevailing, Seaton and his wife (who presented a consortium) sought some \$16,000,000 in damages. [Seaton had also sued Jewish Hospital which settled before trial.]

Patterson defended the case that the consent form was properly signed and that if he had waited to perform the amputation, Seaton faced a risk of death from cancer or a permanent inability to urinate. His expert, Dr. David Paulsen, Urology, Duke University, affirmed Patterson's decision and estimated the cancer (upon its removal) was at Stage II. The defense argued to the jury that Seaton's problem was his rare and deadly cancer, not the surgery.

This case was tried for several days in Shelbyville. The verdict on the informed consent count was 10-2 for Patterson and Seaton took nothing. Seaton's counsel has since remarked that an appeal is promised – attorney George indicated his client will challenge the notion that a doctor cannot change the confines of consent unless there is a danger of imminent death. [At the time of this report, a judgment had not been entered.] **Ed. Note** - There have been three plaintiff verdicts since 1997 in Kentucky involving serious penis injuries. The first was in 2000 when the plaintiff lost his penis after a groin infection was mismanaged. That plaintiff (No. 1393 - Bowling Green) took \$2,599,832.

The second case was in 2004 and involved an infant that sustained a penis injury following a botched circumcision. Tried in Fayette County (No. 2768 - Skillman v. Belin), the plaintiff was awarded \$268,000.

The third plaintiff's verdict was from

Pike County (No. 4228 - Hackney v. Swofford) where the plaintiff suffered a penis infection after a penile implant complication. The verdict was \$4,617,612.

In another 1999 case from Jefferson County (No. 1200 - Pack v. Witten), the plaintiff complained of scarring and performance issues after a circumcision gone bad.

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**E-Mail** - [Info@juryverdicts.net](mailto:Info@juryverdicts.net)