

**VETERINARIAN, ACTING AS ASSISTANT SURGEON, FILED MOTION FOR FINAL SUMMARY
JUDGMENT AND VETERINARIAN'S WIFE, ACTING AS NURSE ANESTHETIST,
FILED MOTION FOR PARTIAL SUMMARY JUDGMENT IN
ACTION FOR VETERINARY MALPRACTICE RESULTING IN INJURY TO A HORSE.**

Salas v. Wellington Equine Assoc., 215 WL 12556296 (D. Fla. 2015)

BASIS OF THE COMPLAINT:

Plaintiff, Camilo Salas, a licensed attorney proceeding *pro se*, is the owner of a horse that underwent a surgical procedure at Wellington Equine Associates and alleges that Katherine Schachter and Dr. Ben Schachter committed professional negligence or malpractice in connection with the surgery on the horse's leg. During the surgery Mrs. Schachter acted as nurse anesthetist and Dr. Schachter acted as assistant surgeon. Dr. Alan Nixon acted as primary surgeon. Mr. Salas alleges Mrs. Schachter committed professional negligence in that the horse was kept under anesthesia for far too long resulting in injuries to the horse. Salas alleges that Dr. Schachter committed veterinary malpractice and/or negligence for performing an excessively long surgery and failing to take proper steps to prevent post-anesthetic myopathy and jugular thrombosis. Mr. Salas signed an Authorization for Treatment giving permission to Wellington Equine Associates to perform: general anesthesia; tenoscopy; post-surgical care; and, hospitalization. The Authorization also provided that Mr. Salas agreed to hold Wellington Equine Associates, its doctors and employees harmless from circumstances arising out of the performance of their duties, and that the risks associated with the named procedures had been explained to him and he understood them fully.

LEGAL PROCEEDINGS:

Dr. Schachter and Mrs. Schachter filed Motions for Final Summary Judgment and Partial Final Judgment, respectively, based on the clear language of the Authorization which Mr. Salas understood and agreed to.

Mr. Salas, in his opposition to the motions, contends that the Authorization does not hold the Schachter's harmless for their own negligent acts, and, even if it did, the Authorization does not apply in this case because the Defendants performed an adhesiolysis on the horse, a procedure that Salas maintains he had no knowledge of, and it was not listed as a procedure in the Authorization.

DISCUSSION OF THE COURT:

The Court found that there existed a material issue of fact as to whether the Authorization even applied since there was a question as to what procedures, specifically the adhesiolysis, were authorized. In support of his contention that the adhesiolysis was performed, Mr. Salas cites Dr. Nixon's Surgery Report which includes adhesiolysis as a surgical procedure performed on the horse. The Court noted that an adhesiolysis was not one of the procedures listed in the Authorization.

Mr. Salas also set forth sufficient evidence beyond the pleadings to show that a reasonable jury could find in his favor on the issues of professional negligence or malpractice. Mr. Salas

submitted the Case Report of Robert Boswell, D.V.M. in which he opined that: (1) the horse developed myositis and radial nerve paralysis as a result of prolonged hypotension during anesthesia; (2) once the risk for developing laminitis was identified, preventative measures should have been implanted immediately; and, (3) once the horse was diagnosed with laminitis, aggressive emergency treatment should have been administered immediately. Dr. Boswell found that all three actions or inactions represented a breach of the standard of veterinary care which resulted in the horse's injuries. Salas also submitted the Case Report of Elaine Carpenter, D.V.M. in which Dr. Carpenter opined that myopathy of the muscles in the left forelimb is likely due to prolonged anesthesia with low mean blood pressure.

DECISION OF THE COURT:

The Court found that Mr. Salas had provided sufficient evidence, viewed in the light most favorable to the Plaintiff to survive summary judgment, that there was evidence to support Mr. Salas' claim that Mrs. Schachter had committed professional negligence arising out of her work as the nurse anesthetist because medical experts opined that injury to the horse occurred, in part, because of prolonged anesthesia, and that Salas had set forth evidence to support the allegations that Dr. Schachter committed veterinary malpractice and/or negligence for performing an excessively long surgery and failing to take proper steps to prevent the post-anesthetic injuries.

Katherine Schachter's Motion for Partial Final Summary Judgment and Dr. Ben Schachter's Motion for Final Summary Judgment were denied.