

John Mitchell vs. Kaiser Foundation Hospital, et al.

A Kaiser arbitrator awarded \$3,469,778 to John Mitchell, who was rendered a partial paraplegic as a result of an 11-day delay in obtaining a thoracic MRI to diagnose and treat a thoracic disc herniation.

Claimant alleged a complete failure of the Kaiser system. Mitchell was seen by Kaiser physicians on February 1st, 8th, 9th, 10th, 15th and 17th with escalating signs and symptoms of a spinal cord compression. On February 19th, Mitchell had an MRI that revealed a disc compression in the thoracic spine. By the time he underwent emergent decompressive surgery on February 20th and began rehabilitation, he had incomplete paraplegia due to thoracic disk protrusion, neurogenic bowel and bladder, sexual dysfunction, distal neuropathy, pain, impaired mobility, and impaired self-care and toileting.

Testimony during arbitration confirmed that not a single Kaiser healthcare provider nor a single expert witness disputed the fact that a spinal cord compression is a time-sensitive, surgical emergency. They agreed that a spinal cord compression was in the differential diagnosis as of February 8th. They confirmed that spinal cord compression of the thoracic spine was in the differential by February 10th.

Claimant alleged Kaiser healthcare providers did not communicate with each other; did not follow up on orders; did not follow Kaiser's own guidelines regarding suspected spinal cord compression; and did not accept responsibility for Mitchell's care.

All except one of Kaiser's expert agreed with Claimant's experts that the delay caused Mitchell's injuries. Rather, Kaiser's experts focused on damages and opined that Mitchell could work full-time for his normal work-life expectancy; that he would have no further disability; and that too much assistance would be detrimental to him.

Claimant served a Code of Civil Procedure section 998 Offer to Compromise for \$2.5 million. Kaiser did not respond or counter-offer.