

ANOTHER INSTALLMENT IN THE *GEORGE THE BARTENDER* SERIES

For past installments of the *George the Bartender* series, please visit our web site at <http://www.kttlaw.us/memos.html>

RE: **GEORGE THE BARTENDER AND THE STROKE AOE/COE ISSUE OR WELCOME TO MEDICAL SCIENCE 101, CLASS IS NOW IN SESSION¹**

FROM THE LOBBY BAR AT THE HYATT:

I knew something was amiss as soon as I saw the ambulance parked in front of the Hyatt. After making my way into the Lobby Bar I saw that Dr. Ratbar, George the Bartender and George's attorney, Ron Summers, were in hushed conversation. Taking a seat near them I attempted to glean from them the reason for the ominous appearance of the ambulance.

However, their conversation ended abruptly as I took my seat. Dr. Ratbar and Ron hurried out of the Lobby Bar with a piece of paper in hand. As I ordered my first martini of the evening George explained to me the situation.

One of the bus boys, Rafael, had collapsed at work and was being rushed to the hospital. George told me that when Rafael had regained consciousness George told him that his attorney and Dr. Ratbar would accompany Rafael to the hospital to "protect his rights."²

George further confided in me that Dr. Ratbar was positive that Rafael had sustained a stroke. George told Dr. Ratbar and Ron that the restaurant chef yelled at everyone, including Rafael, and they concluded that this "stressful" work environment caused the stroke.

After contemplating and then devouring the second olive in my martini I told George that "stress" can never be the direct cause of a stroke but, depending on the type of stroke, could be the indirect cause. George was puzzled and told me that he thought a "stroke was a stroke" and threatened to withhold my second martini until I explained.

Not one to incur such a punishment I decided to dust off my trusty honorary Doctorate in Medical Science and enlighten George. Although "emotional stress" can never be the direct cause of a stroke, acutely elevated blood pressure precipitated by stress can result in a *hemorrhagic stroke* but not a *lacuna stroke*. If one has a *hemorrhagic stroke* this can be verified by a *bleed* or large white cloudy mass which can be seen on a CT scan of the brain. A *lacuna stroke* can be verified by an MRI scan which will show an infarct involving the thalamus.³

Both hemorrhagic and lacuna strokes are ultimately caused by hypertension, although a lacuna stroke can also be caused by long standing diabetes. While long-standing hypertension can be the

¹ For those new patrons to the Lobby Bar, George the Bartender's workers' compensation case involves an injury to his elbow, lateral epicondylitis (tennis elbow), sustained from the repetitive serving of martinis to me. If there ever was an admitted industrial injury, this is it!

² Mystery solved as this paper that Ron was holding as he was leaving could be nothing else but an Application for Adjudication!

³ Please note that I don't actually have an honorary doctorate, or an actual PhD, but it's definitely not from a lack of trying. I've put in enough hours over the past 30-plus years in this industry to know a thing or two about medical conditions.

cause of a lacuna stroke this type of stroke cannot be caused by the sudden elevation in blood pressure due to emotional upset, i.e., stress.

In Rafael's case we would first look at the scans (MRI, CT Scan) of the brain to see if there is a bleed and, if so, it is possible that Rafael's hemorrhagic stroke was caused by a sudden increase in blood pressure as a result of being yelled at by the Chef.

Right about now loyal Lobby Bar patron you're probably asking yourself, "Joe, what do all these terms that you're throwing at us mean?" I'm glad you asked. In looking at a case involving a *stroke* or *cerebrovascular accident* (CVA) we always want to go to the medical dictionary and define our terms.

The term *cerebrovascular accident* is medical shorthand for a *stroke* or *cerebral hemorrhage*. A *hemorrhage* is a loss of blood or blood escaping from the circulatory system. A *stroke* is a condition due to the disruption of blood supply, like a *hemorrhage*, to the brain which results in blurring vision, severe headaches, numbness and ultimately paralysis of the face, arm or leg usually restricted to one side of the body. An *infarct* is an area of dead tissue resulting from an obstruction of the tissue's blood supply.

In investigating injury AOE-COE in a stroke case we need to determine if the applicant has a history of long-standing hypertension or diabetes. Then in our letter to our QME we need to ask our QME whether we are dealing with a *lacuna stroke* or *hemorrhagic stroke*. Rafael's stroke was definitely in the course of his employment (COE) but in order to be compensable the stroke must also arise out of the employment (AOE).

If the stroke was a hemorrhagic stroke and the "bleed" can be seen on the CT scan then the stroke may be compensable. However, if there is no bleed on the CT scan and the MRI shows an infarct on the thalamus then we are dealing with a lacuna stroke which cannot be caused by a sudden elevation in blood pressure caused by stress.

George's eyes had glazed over and his mouth was agape. I took it perhaps that my explanation may have been a bit too in-depth but thought I had provided him with a more than adequate education on the matter.

DISCLAIMER:

Although the story above is a product of my imagination the medical theory is not. Using undisputed medical evidence that a lacuna stroke could not be caused by the sudden elevation of blood pressure due to severe emotional stress we obtained a Findings & Order of No Injury in the 2005 case of *Ninoska Hernandez vs. Bank of America* (Case No. MON301272). The decision was never appealed and remains a trial decision.

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Class is Now in Session
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Nevertheless a decision of a WCJ is a decision of the Appeals Board and therefore can be cited pursuant to Labor Code §5703(g) which provides, “The appeals board may receive as evidence either at or subsequent to a hearing, and use as proof of any fact in dispute . . . the prior decisions of the appeals board upon similar issues.”

Make mine a double, George.

-Joe Truce