

South Florida Hospital News

February 2010

Law firm Dell & Schaefer wins \$334,000 in owed disability benefits for Illinois surgeon

by John Fries

Yogin Parikh, MD, is a general surgeon at Hammond Henry Hospital in Geneseo, Illinois. A surgeon for more than 30 years, he has performed countless major procedures on untold numbers of patients. By all accounts, he enjoyed a successful career until just a few years ago, when his ability to perform general surgical procedures that required him to stand for more than an hour. As a result of his back pain, he sought medical treatment from an orthopedic surgeon.

Because of Parikh's ongoing pain problem, he's had to substantially cut back on his workload. This, in turn, has cut deeply into his livelihood. Between 2007 and 2008, Parikh watched his annual earnings dwindle from over \$300,00 to about \$60,000 a year. The doctor who'd spent three decades taking care of patients had become a patient himself.

Like many physicians, Parikh purchased a long-term disability income policy more than 16 years before his back problems began. The problem is that his insurer, Unum Company, a large, publicly traded company, flat-out denied the doctor's disability claim, just as they've done in many other situations. After initially accepting the determination, some time went by and Parikh decided to take action. And that's when Dell & Schaefer, became involved.

The law firm, managed by attorney Gregory Michael Dell, specializes in representing disability insurance claimants in both private policy and group disability (ERISA) claims. Dell & Schaefer is a nationwide powerhouse firm that was established in 1979 and, over the past 30-plus years, has represented literally thousands of clients filing claims against insurance companies. Dell's firm has a reputation for being one of the most expert, effective disability firms in the country, so it was only a matter of time until Parikh contacted them. Dell & Schaefer eventually won \$334,000 in disability benefits and reinstatement of Parikh's monthly benefits following their representation of him during a jury trial in federal court in Peoria, Illinois.

"Dr. Parikh had purchased a disability policy from Unum 18 years ago, and he was counting on Unum to honor the terms of the disability contract if he ever needed to file a claim," said Dell, disability insurance attorney and founder of Dell & Schaefer. "Then, he became partially disabled and was entitled to long-term disability benefits. But Unum withheld those benefits."

Dell and his team tried to settle the case prior to filing the lawsuit. "We really tried to resolve this with Unum, but were unsuccessful in that effort," he said. "One problem is that the terms written into Unum's insurance policies are somewhat ambiguous."

Ultimately, Parikh's case went to a jury trial in a Peoria federal court. During the trial, which took place the week before Christmas, Unum maintained that there was insufficient medical evidence to support Parikh's claim for benefits. This defense was based solely on the opinion of a Unum physician who examined Parikh for 20 minutes and concluded that the doctor had no restrictions and limitations and was capable of performing all of his surgical procedures.

"There's literally no way to scientifically quantify pain," said Dell, "although Unum tried." At one point during the trial, Dell said a deposed Unum employee testified on video that one way she could verify Dr. Parikh's back pain was "if he had a knife in his back." She also admitted during the trial that she did not know whether an appendectomy—an invasive procedure—required that a person's skin be cut.

After hearing four days of testimony, the eight-person jury ruled that Parikh was partially disabled, and as such was entitled to the five years of long-term disability benefits Unum had withheld under the disability insurance policy that Parikh purchased from them, awarding more than \$334,000 in disability insurance benefits. Post-trial motions for attorney fees and cost are pending.

According to Dell, Parikh's case is far from an uncommon situation. "Our firm has pursued legal action against Unum on numerous occasions," he said. "Dr. Parikh's case was one of many in which Unum's practices for denying claims have been called into question." Unum, he added, has received millions of dollars in fines for its unreasonable and unlawful denial of disability claims. "Just last year, in fact," said Dell, "a jury in Nevada awarded \$60 million to a man who sued Unum for a bad faith denial of long-term disability benefits."

Dell said the trial was "a victory for Dr. Parikh, who was unfairly denied the benefits which he had paid Unum to provide in the event he was no longer able to perform his job as a general surgeon," adding that, "it is also a victory for thousands of disability claimants suffering from subjective complaints of pain and the insurance companies deny their claim."

He went on to say that, "this verdict demonstrates that Unum continues to ignore the 2004 agreement it entered into with 48 states, in which its practices for denying claims without reasonable justification were called into question," Dell said.

Dell and his legal team now plan to pursue an Illinois bad faith claim to help Parikh obtain an additional damages award of up to 60% of the verdict, as well as attorney fees in excess of \$250,000.

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