



120 Beulah Road, NE, Suite 200  
Vienna, Virginia 22180  
Toll Free: 800-336-0332  
Fax: 703-255-6134  
[www.malpracticeexperts.com](http://www.malpracticeexperts.com)

## **Orthopedic Surgery Sample Case**

### **Biceps muscle/tendon rupture with delayed surgical repair causing weakness.**

On April 20, the patient fell and caught himself with his right arm, injuring the tendon and biceps muscle of his right arm. At that time he weighed 247 pounds.

In the Emergency Room the plain x-rays showed no fracture. That physician noted: "Suspect tear of the biceps muscle" and the patient was referred to an Orthopedist.

When the tendon ruptures, the muscle contracts like a rubber band, and over time, scar tissue forms from the torn flesh, and the muscle atrophies (degenerates). As the weeks and months pass, its length is lost. With delayed surgery after that time, it is not possible to sew the two ends of the tendon together. To fill in that gap, another piece of tendon, as a graft, has to be sewn in place. However, without gaining the original muscle length, strength is lost. The muscle "lump," a cosmetic deformity can be corrected by that delayed surgery, but the loss of strength damage from an excessive delay would not be corrected.

Based on the medical history, and physical examination findings, the torn (ruptured) biceps tendon should have been suspected much sooner. A MRI examination should have been done and that would have documented the details of his injury.

The Internist who was treating his hypertension saw him on what appears to be 4/22 and saw a "large ecchymosis" (black and blue discoloration from bleeding into his flesh) and said: "possible torn muscle". He was referred to an Orthopedic Surgeon, Dr. #1.

I have not seen the office records of Dr. #1, but your letter states that he concluded: "right arm hematoma, ruptured muscle, resolved". He was to return to his "regular duties".

Did the lump really resolve? If so, then it was a partial tendon rupture and tear in the muscle, or bleeding into this muscle.

Your letter noted that "On July 15, the Patient again presented to Dr. #1 complaining of a painful lump on his right arm and numbness in right hand fingers. Upon examination, the lump was a tender mass of 2 1/2 centimeters (one inch), hard, movable but severely attached to the muscle".

Did this suddenly develop in July? That would mean the tendon fully tore at that time, and the failure to diagnose a partial tear earlier, would be "excusable" under the circumstances, because the typical ball of muscle and impaired flexion would not have been present. Bleeding into the muscle from some torn fibers would be treated conservatively, since it would resolve and heal over time. A torn tendon is repaired surgically without delay.

He was referred to Dr. #2, an Orthopedic Surgery Professor. He saw the patient on 9/21, not July. Why was there a delay? Dr. #2 concluded that "there is a soft, freely mobile soft tissue mass present over the anterior surface of the right arm. This, in all likelihood, represents avulsion (ripping apart) of the biceps with contraction".

He had electrical nerve and muscle tests (NCV and EMG) which revealed compression of the median nerve at the muscle scar tissue area from this injury, and at the wrist (carpal tunnel syndrome), probably not related to his injury.

Both operations to free up the nerve on his upper arm and wrist took place on 12/22 by Dr. #2, and were properly performed. The findings were as anticipated. The patient recovered and did well, except that the biceps tendon problem, which was not repaired, still was bothering him as Dr. #2 noted on 5/10, a year after the injury. He recommended surgical reconstruction with the use of an Achilles tendon allograft (from a cadaver).

If the muscle lump was present from the initial injury, it would mean that the tendon did rupture at the time of the accident, and not from a partial tear that became a full tear from further use of his arm. The failure to diagnose and treat it on time would be negligent and resulted in the scarring and loss of length (contracture) as well as the scar tissue trapping the median nerve in the upper arm, resulting in the surgery to free up that nerve, and the need for future tendon graft surgery. However, his strength will never be 100% because of the delay and contracture.

It is critical to obtain a detailed statement (preferably affidavit) from the patient and all witnesses to his biceps muscle condition from the time of the injury through at least mid July. Also obtain all the office records of Dr. #1.

At that time, all the records should be evaluated by one of our Orthopedic Surgery Expert Witness Consultants, pursuant to our Fee Schedule.