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## Lasik patient receives \$2.1M

### Eye surgeon settles suit but does not admit fault

Tuesday, July 08, 2008

BY RUSSELL BEN-ALI  
 Star-Ledger Staff

A Bedminster man who alleges he was left legally blind by Lasik surgery reached a \$2.1 million settlement with the prominent eye surgeon who performed the procedure, his attorney said yesterday.

James Dell'Ermo, 47, sought to rid himself of cumbersome eyeglasses and contact lenses he used for his nearsightedness, said his attorney, David Mazie of Mazie Slater Katz & Freeman in Roseland.

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While his claim could not be verified last night, Mazie said he believed the settlement was the largest in a Lasik case in New Jersey history and one of the largest ever in the country.

Mazie said his client underwent Lasik surgery in the Bergenfield office of Joseph Dello Russo, an eye surgeon known in part for his advertising campaign and promotions.

But the procedure left Dell'Ermo legally blind, with vision worse than 20/400 without corrective lenses, Mazie said. Dell'Ermo filed a malpractice lawsuit in Bergen County Superior Court and a settlement was made public yesterday.

"It's getting to the point where he has to have corneal transplants," to correct his post-surgical condition, Mazie said.

John Tomaszewski, an attorney for Dello Russo, said the settlement does not mean an admission of fault.

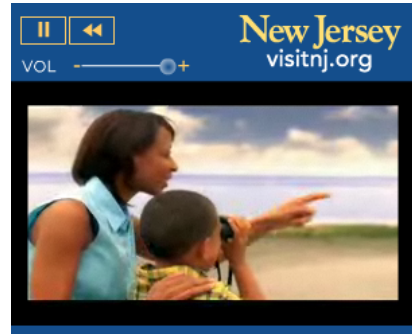
"This settlement was arrived at with the understanding of all parties, in part to avoid the uncertainty and the rigors of a long jury trial," said Tomaszewski, who represented Dello Russo on part of the settlement. "And in no way, shape or form does the New Jersey Eye Center or Dr. Dello Russo concede or admit to any improper treatment or wrongdoing."

Tomaszewski called Dello Russo a pioneer in Lasik technique, a surgeon who has performed tens of thousands of procedures with expert results.

During Lasik -- which stands for laser-assisted in situ keratomileusis -- surgery, doctors cut a flap off the top of the cornea with a blade called a microkeratome. Surgeons use a laser to reshape the cornea, then return the flap.

The operation is the most popular elective surgery in the United States, with nearly 1.3 million procedures in 2007, a drop from about 1.38 million in 2006, said David Harmon, president of Market Scope, a marketing firm that tracks the Lasik industry. The price can vary but the industry average is about \$2,000 per eye, Harmon said.


But it's not for everyone, Mazie said. The lawyer said Dell'Ermo's condition of steep corneas should have ruled




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him out as a candidate for Lasik. He said the procedure caused a condition known as "ec stasia," or bulging of the cornea, in both of Dell'Ermo's eyes.

"We're starting to see that a lot of people who have undergone Lasik and are undergoing Lasik at the moment are not properly screened," Mazie said.

But Tomaszkeski insisted Dell'Ermo was properly screened.

"It's Dr. Dello Russo's position that the medical testing and work- up performed at New Jersey Eye Center revealed (Dell'Ermo) to be an appropriate surgical candidate," he said, adding the plaintiff "was provided with good and appropriate medical, surgical and ophthamo logical care."

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