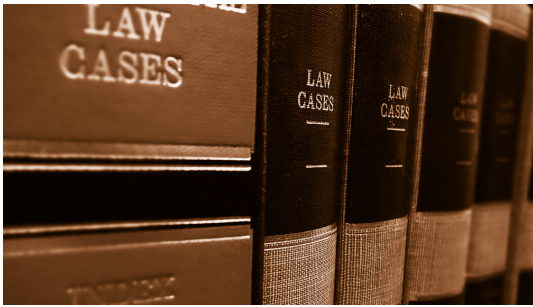


IN RARE FORM



Ask The Attorney: Defeating the Defense Doctor's Claim That Plaintiff Does Not Have CRPS and that CRPS Does Not Spread

by R. Steven Shisler, Esq.

This article offers suggestions and information to plaintiffs and their counsel on trial preparation of the complex regional pain syndrome ("CRPS") case. As the author is admitted to practice law in Pennsylvania, this article is written in accordance with Pennsylvania law, but may be applicable in cases filed in other states.

First, proper pleading is essential. The complaint should aver that the plaintiff suffers from all injuries diagnosed by plaintiff's physicians including CRPS and/or sympathetically mediated pain and other severe injuries. Often, a defense physician will deny that the plaintiff suffers from CRPS, but will admit on cross-examination that, while the plaintiff does not meet the criteria for a diagnosis of CRPS, he/she nevertheless has sympathetically mediated pain. On further cross, the defense expert may admit that whatever it is called, there is no difference in the pain experienced by the plaintiff. In closing argument, Plaintiff's counsel should argue that whatever the condition is called, the plaintiff suffers the same severe pain because of the defendant's negligence.

Selection of the proper expert is critical. While the treating physician may be a family doctor, a pain management physician, neurologist, or neurosurgeon well versed in CRPS should testify as plaintiff's expert medical witness. The testifying expert's reports and testimony must educate the jury in the current medically accepted means of diagnosing CRPS, the Budapest Diagnostic Criteria, and how the plaintiff's symptoms and signs fulfill the Budapest Criteria.

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**EMERGENCY ROOMS
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The International Association for the Study of Pain (“IASP”) has established diagnostic criteria for CRPS, known as the Budapest Criteria, named for the conference where the criteria were established. The Criteria are as follows:

- Continuing pain which is disproportionate to any inciting event.
- Must report at least 1 symptom in 3 of the 4 following categories:
 - Sensory: Reports of hyperesthesia or allodynia
 - Vasomotor: Reports of temperature asymmetry and/or skin color changes and/or skin color asymmetry
 - Sudomotor/Edema: Reports of edema and/or sweating changes and/or sweating asymmetry
 - Motor/Trophic: Reports of decreased range of motion and/or motor dysfunction (weakness, tremor, dystonia) and/or trophic changes (hair, nail, skin)
- Must display at least 1 sign at the time of evaluation in 2 or more of the following categories:
 - Sensory: Evidence of hyperalgesia (to pin prick) and/or allodynia (to light touch and/or somatic pressure and/or joint movement)
 - Vasomotor: Evidence of temperature asymmetry and/or skin color changes and/or asymmetry
 - Sudomotor/Edema: Evidence of edema and/or sweating changes and/or asymmetry
 - Motor/Trophic: Evidence of decreased range of motion and/or motor dysfunction (weakness, tremor, dystonia) and/or trophic changes (hair, nail, skin)
- There is no other diagnosis which better explains the signs and symptoms.

Harden, R.N. et al *Validation of proposed diagnostic criteria (the “Budapest Criteria”) for Complex Regional Pain Syndrome*, Pain Aug. 2010 150 (2): 268-274; see also, American Medical Association, *Guides to the Evaluation of Permanent Impairment* 453, 539 (6th ed., Robert D. Roudinelli, et al., eds. (2008). The Guides are often relied upon by defense pain management physicians.

Care should be taken to make sure the plaintiff fulfills the final criterion, “There is no other diagnosis that better explains the signs and symptoms.” To overcome likely defense assertions, counsel should have the plaintiff examined by a psychiatrist or psychologist to establish that plaintiff has no psychological conditions that explain his/her pain and should have the psychiatrist/psychologist testify at trial.

It is well established that in some individuals, for unknown reasons, complex regional pain syndrome (“CRPS”) can spread from its original location to a different limb or body part.

However, many defense physicians claim that CRPS cannot spread, and that plaintiffs' physicians are incorrect in assertions of spreading of CRPS. Counsel should make sure that the plaintiff's experts are well prepared to defeat the defense physician's assertions at trial. The testimony of plaintiff's medical expert must establish any spreading of the plaintiff's CRPS. His/her reports and trial testimony must refer to the numerous medical articles which establish and address spreading of CRPS including those articles which address and defeat assertions that CRPS does not spread.

The spreading of CRPS (formerly known as reflex sympathetic dystrophy) has been documented since 1976. Hooshmand, H., et al. *Spread of Complex Regional Pain Syndrome (CRPS)*, Neurological Associates Pain Management Center, citing Kozin, F. et al. *The reflex sympathetic dystrophy syndrome. I. Clinical and histological studies: evidence of bilaterality, response to corticosteroids and articular involvement*, Am. J. Med., 1976; 60: 321-323; Maleki, Jahanghir, et al., *Patterns of spread in complex regional pain syndrome, type I (reflex sympathetic dystrophy)* Pain 2000; 88: 259-266; see also, Bharwani, K.D. et al *Denying the Truth Does Not Change the Facts: A Systematic Analysis of Pseudoscientific Denial of Complex Regional Pain Syndrome*, Journal of Pain Research, 2021:14 3359-3376 (Addressing and defeating physicians' articles denying CRPS diagnostic criteria. It should be noted that one anti-CRPS article addressed by the authors was co-authored by a defense attorney).

The plaintiff should never attend the defense medical examination alone. (Never use the term independent medical examination or "IME". This reference was likely invented by the defense or insurance companies. There is absolutely nothing "independent" about this examination. It is performed by the defense expert and is designed to destroy plaintiff's case.) If the plaintiff's expert cannot attend the defense medical examination, one of the expert's associates, or a nurse should accompany plaintiff to the exam. A report documenting the exam should be prepared, should be issued to defense counsel, and the independent witness should be prepared to testify, if necessary. The exam should be videotaped, if possible. At a minimum, plaintiff's counsel should attend the defense exam to prevent the plaintiff from answering improper questions and to maintain some control over the exam. Immediately before and immediately after the defense exam, the plaintiff's CRPS affected limbs should be photographed by an independent witness. These photographs may then be used to impeach the defense doctor regarding his lack of findings. Additionally, the plaintiff and any other potential plaintiff's witnesses attending the exam should note the temperature on the thermostat, if possible, as the room temperature will likely be extremely high in an effort to reduce plaintiff's signs of CRPS.

To defeat the defense expert's trial testimony, the plaintiff should be examined, and supplemental expert reports should be written by the plaintiff's expert as soon as possible prior to, and after, the defense examination. It is likely that the findings of plaintiff's expert will differ substantially from the lack of findings by the defense expert.

The foregoing are some of the techniques and tactics used by the author on preparing for trial of a CRPS case.

R. Steven Shisler, Esquire is a trial attorney in Philadelphia, Pennsylvania, who represents plaintiffs with CRPS and other serious injuries. He is a member of the Board of Directors and an officer of RSDSA. He has personally experienced CRPS for 49 years, as a result of a motorcycle accident. He can be reached by telephone at 215-564-4080, or by email at sshisler@shislerlaw.com.

Save the Date for RSDSA's 3rd Annual Virtual CRPS Walk



RSDSA's 3rd Annual Virtual CRPS Awareness Walk is June 11th!

We are eager and excited about this year's walk. Last year, thanks to our CRPS warriors and their caring circles, we raised over \$60,000, surpassing our goal by 110%. Last year, we had 57 teams from 35 states and four countries. This year we aim higher with a new goal of \$75,000 and participation from every state. We know that if the CRPS community bands together we can surpass this!

RSDSA's 3rd Annual Virtual CRPS Awareness walk is looking for sponsors. This is a great opportunity for organizations/companies looking for national exposure in the CRPS community. If you know or have any connections to sponsors, please contact us at kelly.crpsawareness@gmail.com to learn about the sponsorship opportunities.

The Walk funds will help RSDSA serve the CRPS community with **CARE**:

- **Community** – Hosting Facebook Live Series with leaders from different disciplines. We have over 44 Support groups to alleviate the isolation of chronic pain. RSDSA helps sponsor kids with CRPS to attend a summer camp at the Center for Courageous Kids Camp (CCK) in Kentucky. RSDSA has functioned as a co-sponsor for The Coalition Against Pediatric Pain's (TCAPP) Pediatric Pain Week.
- **Advocacy** – We help the community advocate for healthcare and treatments. The Advocacy Committee collaborates with other Rare Disease organizations to raise awareness.
- **Research** – RSDSA raises money for research for better treatments and a cure. Currently, RSDSA is funding five research grants, see our website for the list of current and past grants.

- **Education** – We provide webinars and virtual conferences on the latest treatments. We have an accredited online course for physicians and nurses to learn more about adult and pediatric CRPS.

Together we can get one step closer to our goal to help CRPS Warriors lead better lives. We want to find better treatments and a cure while helping CRPS Warriors move beyond the pain and empower their lives.

We look forward to "seeing you" on June 11th!

Save the Date for the Connecticut Suns vs. Seattle Storm Game - Friday, June 17, 2022

RSDSA is excited to be teaming up with the Connecticut Suns of the WNBA for a community building fundraiser at their game against the Seattle Storm on Friday, June 17, 2022 at Mohegan Sun Arena in Uncasville, Connecticut.

RSDSA will have a table on the concourse and will be involved in other activities during the game including a raffle.

Tickets will be available in March 2022 and the arena will have ADA compliant seating available. Stay tuned for more details about the game and how you can participate!



Interested in Writing for the RSDSA Blog?

We're always looking for Warriors who want to tell the story of their CRPS journey story on the RSDSA blog!

If you're interested in sharing your story with us and fellow Warriors as a form of therapy and/or in order to help those who may be in the same part of their journey as you are, send us an email at alexisdavis@rds.org.

Facebook Live with Traci Patterson, MD, ND (h.c.), MBA - Thursday, February 17, 2022



Join RSDSA for our next Facebook Live with CRPS Warrior Traci Patterson, MD, ND (h.c.), MBA of Holistic Centered Treatment on Thursday, February 17th at 7p Eastern as she talks about CRPS in children.

Dr. Traci Patterson is a CRPS Survivor, an expert in CRPS, an internationally renowned clinician, clinical hypnotist, published author, patient advocate, and motivational speaker. Using her own experience as someone who was diagnosed with Complex Regional Pain Syndrome, Traci has been instrumental in helping CRPS and chronic pain patients

regain function and regain their lives through her protocol – Holistic Centered Treatment (HCT). Dr. Patterson has treated hundreds of CRPS patients from around the world.

She also created one of the first apps dedicated to CRPS patients – CRPS Hub. It is a free app available on [iOS](#) and [Android](#).

Dr. Patterson also wrote and illustrated a children's book in 2019, [*Unami the Unicorn: A Story of Enchantment and Healing*](#). She also published a book about her personal journey with CRPS and gaining remission titled, [*Stepping Outside the Box: A Journey from Invisible Pain to Invincible Living*](#).

Join us at facebook.com/rsdsa on Thursday, February 17th at 7p Eastern to chat with Dr. Patterson.

Don't forget: If you miss one of our Facebook Live sessions, you can always watch the replay on the RSDSA YouTube Channel as we do record each one.

What Do You Want to See on the RSDSA Website?

We're in the process of updating the RSDSA website and we would love your feedback! Let us know what you want to see on the new site by emailing your ideas to alexisdavis@rsds.org.

Apply for the RARE Compassion Program by February 25, 2022

It is estimated that 30 million people in the United States, or 1 in 10, are living with a rare medical condition. Although understanding the experience of a person with a rare disease can enable improved health, faster and more accurate diagnosis, and better care for individuals and families living with rare diseases, medical professionals often do not receive training to recognize a patient with one of the nearly 8,000 identified rare diseases.

[The RARE Compassion Program](#) is an opportunity for individuals or families living with a rare disease to develop relationships with medical students with the goal of fostering compassion and awareness for the challenges that patients diagnosed with a rare disease are faced with every day.

As an individual or family participating in the RARE Compassion Program you will have the opportunity to educate future medical professionals about the unique needs and challenges presented by living with a rare disease. Through the program, you will build meaningful connections with medical students helping them to better advocate for and recognize patients living with a complex rare condition. In return, you will develop a greater understanding of the medical system and improve your storytelling to enable better communication with your doctors and other medical professionals.

For more information about the program and to apply, click [here](#). Applications are being accepted through February 25th!

Please email compassionprogram@globalgenes.org if you have any questions.

Help Us Develop CRPS Guidelines for EMTs

A few years ago, RSDSA commenced a project to develop guidelines for EMTs on what CRPS is and how to safely transport people with CRPS. The project stalled. We want to resurrect it as EMTs' misunderstanding of CRPS is still a major problem for people with CRPS. If you're interested, please contact us at info@rsds.org.



ERs Are a Minefield for People Struggling With Chronic Pain

Dr. Amy Baxter has [written](#) a down-to earth, practical guide how to successfully navigate interactions with ER staff when you are seeking relief from chronic pain flares. Here is her introduction: “As an emergency doctor, I know that not all of my colleagues understand chronic pain. To make matters worse, the healthcare environment in the US often pressures doctors to see a new patient every 15 minutes, leading their empathy to wear thin. In the spirit of making things better for both the patient and the doctor, below are a few ways to have a more successful experience in the emergency department (ED). While it’s still possible you’ll end up with a doctor that seems burned out, these tips should help you communicate what you need in a way that an ED doctor will respond to and respect.”

Read the full article [here](#).

Virtual Rare Disease Week on Capitol Hill 2022 is February 22nd – March 2nd, 2022



Virtual Rare Disease Week on Capitol Hill 2022 is February 22nd to March 2nd and is organized by The Rare Disease Legislative Advocates (RDLA) of the EveryLife Foundation for Rare Diseases as a part of [Rare Disease Month](#).

This annual event brings rare disease advocates from across the country together to be educated on federal legislative issues, meet other advocates, and share their unique stories with legislators.

The EveryLife Foundation for Rare Diseases will schedule meetings with your Senators and House Representatives and with other advocates from other rare disease organizations. No prior experience is necessary. Registration for this event and all RDLA events are free for all rare disease advocates.

If you are participating this year, please let us know at advocacy@rsds.org. We would love to hear about your experience. Together we can make our CRPS voices heard and seen.

RSDSA Study Update

Since 1992, RSDSA has committed to fund or has funded \$2.2 million in fellowships and 26 grants in basic and clinical research. In the beginning, we funded eight academic fellowships at \$24,000 to encourage those fellows to stay in pain research.

One way to measure the impact of research is to view how many times the research has been cited by subsequent researchers. With 10 or more citations, our work is in the top 24% of the most cited work worldwide.

Here are three RSDSA-funded research studies that far surpass that rule:

- [The 4th edition of the Complex Regional Pain Syndrome: Practical Diagnostic and Treatment Guidelines](#) (cited by 84 articles)
- [Validation of Budapest Diagnostic Criteria](#) (cited by 206 articles)
- [An incidence and prevalence study in Olmstead county in MN conducted by Mayo](#) (cited by 134 articles)

Donate your old car to Charitable Adult Rides & Services (CARS) to benefit RSDSA

[CARS](#) is a 501(c)3 nonprofit social enterprise owned by a nonprofit supporting only nonprofits through vehicle donations.

When you donate a vehicle to CARS, RSDSA receives 70% of the proceeds. Learn more about donating your car to benefit RSDSA [here](#).



A Cleveland Clinic/NIH Research Study for Health Controls and CRPS Patients

Take a look at this new Cleveland Clinic study focused on how the brain functions when trying to avoid pain.

Email koscoj@ccf.org or call 216-444-6626 for more information.

CCF IRB #: 20-067
Approval Date: 2/7/2022
Expiration Date: 1/30/2023

Would You Like to Participate in a Study to Better Understand How the Human Brain Learns to Avoid Pain?

A Cleveland Clinic/NIH Research Study for Healthy Controls and CRPS Patients

"Neurophysiological Correlates of Pain Avoidance Behavior"

The Anesthesia Institute and Neurological Institute invite you to participate in a research study to better understand how brain functions when trying to avoid pain. Your participation could help us understand brain mechanisms and develop new interventions that could potentially benefit countless people suffering from chronic pain.

Who is Eligible?

1. **Healthy Controls** - 18 years or older with no known neurological disorders
2. **Patients** - 18 years or older diagnosed with Complex Regional Pain Syndrome (CRPS)

What is Involved?

2 outpatient visits: (Visit 1 may be split into two visits to help shorten the visit times)

Visit 1 – takes between 6-7 hours You will earn a total of **\$200** for participating in visit 1

- You will complete several questionnaires that ask about your mood, including anxiety and depression, your current pain level, and any disability due to your pain
- You will have questions asked of you about your medication use and your personality and temperament
- You will have a MEG/EEG recording while performing the research pain avoidance task

Visit 2 (if needed) - takes about 1 hour You will earn **\$50** for participating

- You will have a T-1 MRI at Mellen Center

Benefits of Participating

You will help investigators and clinicians learn more about how the brain responds when confronted with pain and the mechanisms involved in how brain learns to avoid pain. This research will aid in the development of non-addictive non-pharmaceutical therapies aimed at long term solutions for chronic pain relief.

The research appointments are scheduled to accommodate your needs.

For more information:
Please email us at koscoj@ccf.org or call 216/444-6626

Skin Cells in CRPS Affected Limbs Produce Factors That Interact With the Pain-Sensing System

Pain, inflammation, and fibrosis are hallmarks of limbs affected by CRPS. In a study conducted at the Balgrist University Hospital in Zurich, Switzerland, researchers found that activated skin cells in CRPS could be the key element that links inflammation and fibrosis to pain.

The project leaders, Prof. Florian Brunner and Dr. Astrid Jüngel say: “This is groundbreaking news, because it shows for the first time that skin cells can cross-talk with the pain-sensing system in CRPS. This opens perspectives for novel therapeutic approaches”.

How did they find out about the important role of skin cells? In the framework of the Clinical Research Priority Program “Pain” of the University of Zurich, they investigated skin biopsies of CRPS patients from affected and non-affected limbs. Skin cells were isolated from the biopsies and cultured under conditions mimicking the inflammatory and fibrotic environment of CRPS. Then they looked at the response of the cells under these conditions. They found that the skin cells from CRPS produce significantly more factors, which can directly activate sensory nerve fibers in the skin. Importantly, they showed that pain of the study participants correlated with the amount of these factors.

In a next step, they showed that the skin cells from CRPS limbs not only produced more of these factors but also more of the receptors that can bind these factors. Therefore, skin cells from CRPS limbs can also sense and respond to these pain-provoking factors. Together, these results show a distorted communication between skin cells and sensory nerve fibers. Such a distortion could lead to dysregulated healing processes and sustained pain in CRPS.

In an on-going research project supported by the RSDSA, Prof. Florian Brunner and Dr. Stefan Dudli are now disentangling the communication between the different cell types in CRPS skin, in order improve diagnostics and identify novel treatment targets.



Host an Event with RSDSA

It's a brand-new year, and the perfect time for an event or activity to raise awareness and funds for your community. Any activity can be an opportunity to raise support for advocacy, research, and education. Every dollar makes a difference. You can make a difference!

The opportunities to create, organize, and host are limitless! You can do it your way, whether that's a movie night or a Facebook fundraiser, or join an already established event. You can even turn a birthday, wedding, or other personal celebration into a fundraiser by inviting others to donate on your behalf.

There is no limit to what you can do, even with the pandemic and bans on large gatherings. There are many unique hybrid and virtual events that can raise awareness and money. There are fundraisers you can do as an individual and ones that include your family, your caring circle, your congregation, or your neighbors. We will be there to help you plan and execute any event you like!

Here are just a few fundraising event ideas:

- Zoom Bingo
- Costume contest (or a pet costume contest!)
- Craft night
- Trivia night
- Game night
- Poker run – I admit, I find this one intriguing. Instead of any poker night you can do a poker run. This involves players using various forms of transportation to visit 5-7 locations. At each location, the player draws a card, with the goal to have the best poker hand at the end of the run. It is more luck than skill, but it is a fun time.

We want your feedback!

Please send any suggestions or upcoming events of interest to our community to info@rsds.org and please consider donating at rsds.org/donate.