

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE
Lack of Informed Consent

VERDICT: Defense

CASE/NUMBER: Alfonso Castro
v. Zareh H. Vartivarian, M.D. /
PC053610

COURT/DATE: Los Angeles
Superior Van Nuys / Nov. 9, 2015

JUDGE: Hon. Michael B. Harwin.

ATTORNEYS: Plaintiff - Arnold W.
Gross, Adam J. Savin (Law Offices
of Savin & Bursk, Granada Hills).
Defendant - Kent T. Brandmeyer
(Law, Brandmeyer & Packer, LLP,
Pasadena).

MEDICAL EXPERTS: Plaintiff -
Rafael O. Quinonez, M.D., ENT,
Mission Hills; David N. Sayah,
M.D., plastic surgery, Beverly
Hills; Ronald B. Ziman, M.D.,

neurology, Northridge; Lan
Lievence, FHFMA, FACMPE,
healthcare/medical coding and
billing, Camarillo.

Defendant - Terry Dubrow, M.D.,
F.A.C.S., plastic surgery, Newport
Beach.

FACTS: Plaintiff Alfonso Castro,
then 59, had been assaulted,
which caused him to sustain a
bilateral jaw fracture. On June 1,
2011, he presented to Providence
Holy Cross emergency room for
treatment. Defendant Dr. Zareh
H. Vartivarian, M.D., a plastic
surgeon, was on trauma call and
saw plaintiff in the emergency
room. He decided to perform
an open reduction and internal
fixation of the jaw fractures.

Plaintiff underwent a mandible
ramus fracture repair. Plaintiff was
thereafter sent to the intensive
care unit, remaining intubated.
He stayed four additional days in
the ICU. When he was extubated
on June 6, he had a severe right-
sided facial droop from an apparent
nerve injury. He was discharged
from the hospital four days later.
Plaintiff was thereafter admitted to
Olive View UCLA Medical Center,
where exploratory nerve surgery
found a complete avulsion of the
main trunk of his right facial nerve
as it exited his skull. Surgery had
not been performed at the site of
the nerve injury.

Plaintiff filed suit

PLAINTIFF'S CONTENTIONS:

Plaintiff contended that Dr.
Vartivarian, in performing the
right mandible fracture repair,
completely avulsed the main trunk
of plaintiff's facial nerve through
excessive force and traction during
the surgery. Plaintiff further
contended that he did not give his
informed consent for the surgery.
Dr. Vartivarian should have
proceeded with a conservative
treatment by wiring the jaw shut
as opposed to operating to attempt
to reduce this very difficult
fracture. Plaintiff contended that
Dr. Vartivarian failed to use nerve
monitoring to protect the nerves
and avoid this injury. He also
negligently injected Lidocaine,
which anesthetized the face and
perves, also resulting in this injury.

DEFENDANT'S CONTENTIONS:

Defendant contended the surgery
was difficult and lasted six hours.
Dr. Vartivarian struggled to reduce
the right jaw fracture, which was
high and near the patient's ear.
He called former co-defendant
Dr. Rafael Quinonez, an ear nose
and throat surgeon, to assist
towards the end of the surgery.
Dr. Quinonez attempted to gently
manipulate the fracture from the
outside to accomplish reduction.
This failed.

Dr. Vartivarian contended that
although difficult, the surgery
was indicated to repair a severely
displaced fracture and performed
in a delicate and meticulous
manner. It was reasonable and
prudent to call in the consulting
ENT surgeon to help. It was also
reasonable to stop before fixing the
fracture. By sending the plaintiff to
the ICU, they were protecting his
airway because there was so much
manipulation and swelling during
the surgery.

Defendant claimed that some
other unknown event must
have caused the transection
of the main trunk of the facial
nerve, a rare complication
as of yet unreported in the
world's medical literature
relating to this specific
surgery.

INJURIES: Plaintiff suffered
complete interruption of the main
trunk of the right facial nerve
resulting in right facial paralysis
and inability to close the right eye.

DAMAGES: \$250,000

SPECIALS IN EVIDENCE: MEDS:
\$368,000 Future MEDS: \$81,000

JURY TRIAL: Length, nine days;
Poll, 11-1; Deliberation, 1.5 hours

SETTLEMENT DISCUSSIONS:
Plaintiff demanded \$374,000.
Defendant made no offer, no
consent.

RESULT: Defense verdict.

OTHER INFORMATION: Former
co-defendant Dr. Rafael Quinonez
was granted summary judgment in
June 2014.

DATE FILED: Aug. 28, 2012.