

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE

Negligent Rotator Cuff Surgery

VERDICT: Defense.

CASE/NUMBER: Sandra Jean Crawford v. Tarek Bittar, M.D. / PC049000.

COURT/DATE: Los Angeles Superior Chatsworth / Sept. 25, 2013.

JUDGE: Hon. Randy Rhodes.

ATTORNEYS: Plaintiff - Jack M.

Schuler (Schuler & Brown, Van Nuys).

Defendant - Kent T. Brandmeyer (Law Brandmeyer & Packer LLP, Pasadena).

MEDICAL EXPERTS: Plaintiff - John Cruies III, M.D., radiology, Los Angeles; Jacob Tauber, M.D., orthopedic surgery, Beverly Hills.

Defendant - Scott K. Forman, M.D., orthopedic surgery, Newport Beach; Matthew Lotysch, M.D., neuroradiology, Inglewood.

FACTS: On April 2, 2009, plaintiff Sandra Crawford, 65, injured her shoulder in a work-related accident at Henry Mayo Hospital where she was an LVN. She was referred to defendant Tarek Bittar, M.D., an orthopedic surgeon. She underwent two MRIs, which diagnosed a labral tear and a mild irregularity on the surface of her rotator cuff tendon.

Dr. Bittar scheduled plaintiff for right shoulder arthroscopy to treat the labral tear. Plaintiff was consented for labral repair, subacromial decompression and acromioplasty. She was not consented for rotator cuff tear surgery, as there were no definitive findings of rotator cuff pathology on either pre-operative MRI.

On June 22, 2009, plaintiff was brought to surgery. Intra-operatively, Dr. Bittar noted that plaintiff had a high-grade partial tear of the rotator cuff. This was repaired.

Post-operatively, plaintiff experienced severe adhesive capsulitis and eventually developed reflex sympathetic dystrophy. She never returned to work.

PLAINTIFF'S CONTENTIONS: Plaintiff contended that Dr. Bittar was negligent in repairing the rotator cuff. There was no evidence either on the two MRIs or intra-operatively that there was a high-grade tear necessitating surgical repair. Plaintiff also contended that the rotator cuff was only mildly damaged and should not have been surgically repaired. Because it was repaired, plaintiff developed her post-operative complications and still experiences severe pain and limited range of motion in the shoulder.

DEFENDANT'S CONTENTIONS: Dr. Bittar claimed that he complied with the standard of care in repairing the rotator cuff. Although the pre-operative MRIs did not show a high-grade tear, there is a high rate of false positives with MRIs and partial thickness tears. Additionally, the intra-operative examination of the tissue by Dr. Bittar established the high-grade tear. There were intra-operative photos taken through the arthroscope which plaintiff claimed did not show the tear either. Dr. Bittar contended to these was that the photos were simply snapshots in time and the real time examination and probing of the tissue is what diagnosed the high-grade tear.

INJURIES: Plaintiff suffered adhesive capsulitis in the shoulder and reflex sympathetic dystrophy in the right extremity. This has resulted in severe, chronic pain and loss of range of motion in the shoulder and arm on the right.

SPECIALS IN EVIDENCE:

MEDS: Covered by workers' compensation insurance. Future MEDS: Covered by workers' compensation insurance. LOE: \$40,000 Future LOE: \$200,000.

JURY TRIAL: Length, eight days; Poll, 12-0; Deliberation, one hour.

RESULT: Defense verdict.