

VERDICTS & SETTLEMENTS

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PERSONAL INJURY

MEDICAL MALPRACTICE

Failure to Diagnose

VERDICT: Defense.

CASE/NUMBER: Holly Dann v. Lancelot Alexander, M.D., Peter Brian Andersson, M.D., Jack L. Chen, M.D., Justin Dominick, M.D., South Valley Radiology Medical Group Inc. / BC472927.

COURT/DATE: Los Angeles Superior Central / Oct. 22, 2014.

JUDGE: Hon. Mary Ann Murphy.

ATTORNEYS: Plaintiff - Browne Greene (Greene, Broillet & Wheeler LLP, Santa Monica); Daniel K. Balaban (Balaban & Spielberger LLP, Los Angeles).

Defendant - Bradley C. Clark (Schmid & Voiles, Los Angeles) for Dr. Alexander; N. Denise Taylor (Taylor Blessey LLP, Los Angeles) for Dr. Anderson; Kent T. Brandmeyer (Law, Brandmeyer & Packer LLP, Pasadena) for Dr. Chen, South Valley Radiology Medical Group; Louis H. De Haas (LaFollette, Johnson, De Haas, Fesler & Ames, Los Angeles) for Dr. Dominick.

MEDICAL EXPERTS: Plaintiff - Daniel Becker, M.D., neurology, Baltimore, Md.; Carol R. Hyland, C.D.M.S., C.L.C.P., vocational rehabilitation and life care planning, Lafayette; Howard E. Pitchon, M.D., infectious diseases, Beverly Hills; Edward A. Smith, M.D., neurosurgery, Santa Maria.

Defendant - Bruce A. Cree, M.D., neurology, San Francisco; Thomas L. Hedge Jr., M.D., physical medicine and rehabilitation, Northridge; Stacey R. Helvin, RN, BSN, PHN, CRRN, CLCP, life care planning, Yorba Linda; Matthew Lotysch, M.D., neuroradiology, Inglewood; Robert Gordon Miller, M.D., neurology, San Francisco.

TECHNICAL EXPERTS: Plaintiff - Robert Johnson, economics, Los Altos.

Defendant - Constantine M. Boukidis, forensic economics, Los Angeles.

FACTS: Plaintiff Holly Dann, 48, presented to Providence Tarzana Medical Center on Nov. 21, 2009, complaining of leg pain and weakness. She received an MRI without contrast of her lumbar spine. The radiologist read the MRI as normal and negative for any spinal cord pathology. She was sent home from the emergency room with no definitive diagnosis.

On Nov. 23, plaintiff returned to the emergency room at Providence Tarzana Hospital. She was flaccid and without sensation from the waist down. She underwent additional MRI scans, with and without contrast, of the lumbar and thoracic spine. Dr. Jack Chen, a radiologist, read the MRIs, which were again normal and negative for any spinal cord pathology. Plaintiff was admitted to the hospital and seen by Dr. Peter-Brian Andersson, a neurologist. Based upon his examination and test results, Dr. Andersson diagnosed the patient with Guillain-Barre syndrome. Dr. Andersson instituted treatment with intravenous immunoglobulin.

On the day after admission, Dr. Lancelot Alexander saw the patient for a second opinion neurology consultation. Dr. Alexander performed a full examination and found a curious seeming thoracic sensory level at T11 on the right and L1-2 on the left. Still, because of the negative MRI scans, the motor and sensory examination findings and cerebrospinal fluid test results, Dr. Alexander felt the diagnosis was almost certainly Guillain-Barre syndrome.

Dr. Justin Dominick, a neurologist, followed up with the plaintiff in the hospital. Dr. Dominick continued to see plaintiff after ward in his office for a number of months, maintaining the diagnosis of Guillain-Barre syndrome. An electromyography study done during rehabilitation confirmed that plaintiff had a rare, axonal variant of Guillain-Barre syndrome as her diagnosis.

About 11 months later, plaintiff obtained another neurology consultation at UCLA from Dr. Perry Shieh. Dr. Shieh looked at all of the MRI films and did his own examination, concluding that the proper diagnosis of plaintiff was not Guillain-Barre syndrome, but transverse myelitis. Plaintiff sought another opinion from Dr. Nancy Sicotte, a neurologist at Cedars-Sinai Medical Center. She came to the same diagnostic conclusion of transverse myelitis.

PLAINTIFF'S CONTENTIONS: Plaintiff contended that all defendants missed the proper diagnosis of transverse myelitis. They incorrectly diagnosed plaintiff with Guillain-Barre syndrome and this fell below the standard of care. Plaintiff further contended that the MRIs were misread and showed evidence of spinal cord edema, which supported the diagnosis of transverse myelitis and ruled out the diagnosis of Guillain-Barre syndrome.

Eventually, plaintiff went to the transverse myelitis center at Johns Hopkins University in Baltimore to be seen by Dr. Daniel Becker. Dr. Becker again diagnosed transverse myelitis. He told plaintiff that she was improperly diagnosed from the start with Guillain-Barre syndrome. He also told her that, had she received high-dose corticosteroids during the first 14 days of her presentation in November 2009, her outcome would have been substantially improved.

Plaintiff claimed that, had the correct diagnosis of transverse myelitis been made, plaintiff would have received high-dose steroids to lessen her inflammation and substantially improve her outcome. Specifically, plaintiff contended that she would have been able to ambulate without any assistive devices and had normal bowel and bladder function.

DEFENDANTS' CONTENTIONS: Defendants contended that the diagnosis of Guillain-Barre syndrome was correct from the start and that it is the correct diagnosis presently. Defendants asserted that plaintiff's Guillain-Barre syndrome is a rare, severe form called the axonal variant. Although most patients typically recover fully from Guillain-Barre syndrome, those with this severe form do not and are left with permanent, residual disabilities.

Defendants further contended that there is no reliable medical evidence that corticosteroids improve outcome with transverse myelitis patients. Therefore, even if the diagnosis had been missed, the outcome would not have changed because steroids would not have improved it.

INJURIES: Plaintiff claimed she has permanent weakness, primarily in her distal legs and feet that necessitates bilateral leg braces and a cane. Plaintiff also claimed permanent bowel and bladder dysfunction requiring her to self-catheterize, manually disimpact her stool, and wear diapers. Plaintiff claimed that as she ages, she would require more medical equipment including a wheelchair and an aide.

DAMAGES: \$1.2 million for general damages.

SPECIALS IN EVIDENCE: MEDS: Plaintiff's life care plan was valued at \$7.7 million, present value, by her economist. LOE: \$150,000 Future LOE: Plaintiff worked as the Chief Financial Officer in her husband's dental practice. Her claimed future lost earnings were \$960,000.

JURY TRIAL: Length, five weeks; Poll, 12-0; Deliberation, 45 minutes.

SETTLEMENT DISCUSSIONS: Plaintiff made CCP 998 statutory demands of \$1 million as to each defendant.

RESULT: Verdict for the defendants.