

**PERSONAL INJURY**

**MEDICAL MALPRACTICE**

Failure to Diagnose Colon Cancer

VERDICT: Defense.

CASE/NUMBER: Beth Jenkins, Steven Jenkins v. Karen Allsup, M.D. / NC055345.

COURT/DATE: Los Angeles Superior San Pedro / Oct. 2, 2012.

JUDGE: Hon. Michele E. Flurer.

ATTORNEYS: Plaintiff - Morton A. Kamzan (Law Offices of Morton A. Kamzan, Woodland Hills).

Defendant - Yuk K. Law (Law, Brandmeyer + Packer, LLP, Pasadena).

MEDICAL EXPERTS: Plaintiff - Patrick Dowling, M.D., family practice, Los Angeles; Mark McNamara, M.D., oncology, Pasadena.

Defendant - Richard A. Johnson, M.D., family medicine, Pacific Palisades; Michael B. Van Scoy-Mosher, oncology, Los Angeles.

TECHNICAL EXPERTS: Plaintiff - Barbara Luna, Ph.D., forensic economics, Sherman Oaks.

Defendant - Jennie McNulty, CPA, MBA, economics, Los Angeles.

FACTS: Plaintiff Beth Jenkins is a sergeant in the Los Angeles Police Department. She established care with defendant Dr. Karen Allsup, M.D., family medicine physician, in February 2006, at which time Dr. Allsup became Plaintiff's primary care physician. Plaintiff had annual physical examinations by Dr. Allsup in May 2007 and May 2008, and she also had several office visits with Dr. Allsup for acute problems.

On Nov. 21, 2008, Plaintiff presented to Long Beach Memorial Center's emergency department with the complaint of abdominal pain, and a CT scan showed abnormally large lymph nodes in the retroperitoneal

region. It was suspected that there was lymphoma or a viral infection. Upon discharge from the emergency department, Plaintiff returned to Dr. Allsup, who wanted to get the hospital records but was under the impression that Plaintiff probably had a viral infection.

On Jan. 20, 2009, Plaintiff returned to Dr. Allsup after she was evaluated at the emergency room for abdominal pain. Dr. Allsup sent Plaintiff to Long Beach Memorial Medical Center, where Plaintiff was diagnosed to have Stage IV colorectal cancer that metastasized to the retroperitoneal area. Thereafter, Plaintiff received chemotherapy and surgery.

PLAINTIFF'S CONTENTIONS: Plaintiff contended that she told Dr. Allsup during the annual physical examinations in 2007 and 2008 that she had beet-like red in her stool following rigorous workouts, but Dr. Allsup failed to investigate by conducting rectal examinations or ordering a colonoscopy. Dr. Allsup allegedly told Plaintiff not to worry because it was common for young women who exercised to have hemorrhoids, which caused the blood in the stool.

Plaintiff also claimed that Dr. Allsup further delayed the diagnosis of colorectal cancer on Nov. 21, 2008, when Plaintiff had enlarged lymph nodes seen on the CT scan done in the emergency department.

DEFENDANT'S CONTENTIONS: Dr. Allsup contended that during the annual physical examinations in 2007 and 2008, that she specifically asked Plaintiff if she had bowel difficulties, melena (dark stool) or hematochezia (blood in the stool), and the dictated records documented the discussions in which Plaintiff denied such problems. Therefore, Dr. Allsup complied with the standard of care in not performing rectal examinations or referring Plaintiff to have a colonoscopy.

In regards to causation, Dr. Allsup claimed that Plaintiff had metastatic colorectal cancer by 2007, and, even if an earlier diagnosis could have been made, Plaintiff would have had the same type of surgery and chemotherapy, with the same promising prognosis.

INJURIES: Plaintiff alleged that earlier diagnosis and treatment would have spared her chemotherapy and its permanent consequences, including frequent bowel movements of three to five times daily and neuropathy in her hands and fingers. These disabilities caused her to be off the field in her police duties and ineligible for advancement within the LAPD. She also alleged that the delayed diagnosis resulted in the poor prognosis in terms of her survivability.

DAMAGES: Plaintiff claimed at least \$500,000 in general damages (\$250,000 MICRA cap on non-economic damages per Plaintiff).

Plaintiff's husband, also an LAPD officer, claimed loss of consortium.

SPECIALS IN EVIDENCE: LOE: \$97,442 Future LOE: \$1,037,495 (present cash value).

JURY TRIAL: Length, six days; Poll, 12-0 (no negligence); Deliberation, two hours.

SETTLEMENT DISCUSSIONS: Dr. Allsup offered a waiver of costs during discovery.

RESULT: Defense verdict.

OTHER INFORMATION: Dr. Allsup will file a bill of costs.