

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE

Negligent Surgery

VERDICT: Defense.

CASE/NUMBER: Rita G. Skora v. Red Mateo Alinsod, M.D. / 30-2013-00679634.

COURT/DATE: Orange Superior / March 24, 2015.

JUDGE: Hon. James J. Di Cesare.

ATTORNEYS: Plaintiff - Christopher B. Mears (Christopher B. Mears APC, Santa Ana); Jennifer R. Johnson (Law Office of Jennifer R. Johnson, Tustin).

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

MEDICAL EXPERTS: Plaintiff - Kathy Anderson, M.D., OB/GYN, Costa Mesa.

Defendant - Karen Noblett, M.D., OB/GYN, Irvine.

FACTS: In April 2007, plaintiff Rita Skora, 64, began seeing defendant Red Mateo Alinsod, M.D., for gynecological care and treatment, including a complaint of urinary incontinence. Plaintiff was diagnosed with stress and urgency incontinence, cystocele and rectocele. Dr. Alinsod performed surgery on plaintiff on Feb. 9, 2009 to repair the urethra hypermobility by placement of a mid-urethral mesh sling, the cystocele with pelvic mesh placement, and native tissue repair of the rectocele. Plaintiff had postoperative complaints of pain in her vagina, frequent urinary tract and bladder infections, dyspareunia (pain during sex), pelvic and hip pain, and return of urinary incontinence. Plaintiff discontinued care by Dr. Alinsod in December 2012, and had the mid-urethral mesh sling removed by Dr. Shlomo Raz of UCLA in October 2013.

Plaintiff sued Dr. Alinsod, claiming medical negligence and breach of fiduciary duty.

PLAINTIFF'S CONTENTIONS: Plaintiff argued that Dr. Alinsod should not have offered surgery for her urinary incontinence problems without first placing her on non-surgical/medical management of weight reduction, pelvic floor exercises, physical therapy, bio feedback, and medications. Plaintiff claimed that had such medical management been employed, plaintiff would not have had the postoperative complications associated with pelvic mesh products, which were the subjects of FDA health notices in 2008 and 2011. Plaintiff contended there was a delay of more than three years in diagnosing the postoperative complaints due to the mesh sling eroding into the urethra, and there was lack of informed consent regarding the risks and alternatives to the use of mesh products.

Additionally, plaintiff claimed that Dr. Alinsod breached his fiduciary duty by failing to disclose to her that he had a financial relationship with the mesh manufacturer, Mpathy, for whom he taught other doctors surgical techniques in using mesh products and consultation work, and he received monetary compensation from Mpathy, along with stock options.

DEFENDANT'S CONTENTIONS: Dr. Alinsod contended he is a board certified obstetrician and gynecologist specializing in urogynecology, pelvic floor reconstructive surgery, and aesthetic pelvic surgery. Dr. Alinsod contended that he acted within the standard of care in offering plaintiff the options of medical management, surgical repair with or without mesh, expectant management, or no treatment, and that plaintiff chose the definitive treatment of surgery with the placement of mesh

products. Dr. Alinsod also claimed that he disclosed to plaintiff his teaching and consulting work for the mesh manufacturer, and that he chose the mesh products because they were the most effective and safest to use. Lastly, he claimed that the stock options did not have any value and, as such, he held no financial interest in the manufacturer.

INJURIES: Plaintiff alleged the surgery with mesh products caused her three years of physical pain and mental suffering, as she had frequent bladder and urinary tract infections, return of urinary incontinence, pelvic and hip pain, and dyspareunia. She had to undergo surgery to remove the mesh sling that allegedly eroded into the urethra. She claimed her physical pain and mental suffering will continue into the future, although they have improved since the sling removal surgery in October 2013.

DAMAGES: Plaintiff claimed \$3,000 in past medical expenses and about \$20,000 in hiring a cleaner for three years to help her maintain her house.

JURY TRIAL: Length, eight days; Poll, 12-0 (no negligence), 12-0 (no breach of fiduciary duty); Deliberation, 75 minutes.

RESULT: Defense verdict.