

VERDICTS & SETTLEMENTS

MEDICAL MALPRACTICE

NEGLIGENCE

Breast Reconstruction

VERDICT: Defense

CASE/NUMBER: Jennifer Twitchell, Richard Twitchell v. Zareh Vartivarian, M.D., and Does 1 through 40 / BC539662

COURT/DATE: Los Angeles Superior Pasadena / Feb. 1, 2017

JUDGE: Hon. Margaret L. Oldendorf.

ATTORNEYS: Plaintiff - Steven K. Beckett (Law Office of Steven K. Beckett, San Bernardino).

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

FACTS: In July 2012, plaintiff Jennifer Twitchell, 46, was diagnosed with breast cancer. She elected to undergo bilateral mastectomy followed by immediate breast reconstruction. The surgery occurred on July 27, 2012. Defendant plastic surgeon Dr. Zareh Vartivarian performed a breast reconstruction by incising the plaintiff's pectoralis muscles and placing tissue expanders bilaterally.

Six weeks post-operatively, the tissue expander on the left side was discovered as flipped and therefore needing removal. When plaintiff concluded her chemotherapy six months later, she self-referred to another plastic surgeon who operated to remove the flipped tissue expander. That plastic surgeon discovered an over dissected pectoralis muscle from the previous surgery by Dr. Vartivarian, leading to the flipping of the tissue expander. The breast reconstruction process therefore had to start all over again with the second plastic surgeon.

PLAINTIFF'S CONTENTIONS:

Plaintiff contended that Dr. Vartivarian breached standard of care in the technique that he used to place the tissue expanders. He over dissected the plaintiff's pectoralis muscle and neglected to properly suture the muscle down to the mastectomy skin flap. This resulted in the significant retraction of the pectoralis muscle and the flipping of the expander.

DEFENDANT'S CONTENTIONS:

Defendant contended that Dr. Vartivarian performed the procedure technically the exact same way he had his entire career. He had performed immediate breast reconstruction with tissue expander placement over 700 times and never had this complication. Additionally, there were alternative methods to perform this surgery, which would be within the standard of care.

INJURIES: The flipping of the tissue expander followed by additional surgeries in the breast reconstruction process caused plaintiff ongoing pain and suffering.

DAMAGES: Plaintiff sought \$250,000 in damages.

SPECIALS IN EVIDENCE: LOE: \$25,000

JURY TRIAL: Length, seven days; Poll, 12-0; Deliberation, one day

SETTLEMENT DISCUSSIONS: Plaintiff demanded \$75,000. Defendant made no offer, no consent.

RESULT: The jury found in favor of the defense.

FILING DATE: March 19, 2014.