

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE Negligent Surgery

VERDICT: Defense.

CASE/NUMBER: Toby S. Bradley v. Phillip Norman West, M.D.; Thomas Downes Watson, M.D.; Santa Barbara Cardiovascular Medical Group Inc. / 1418715.

COURT/DATE: Santa Barbara Superior / July 23, 2015.

JUDGE: Hon. Thomas P. Anderle.

ATTORNEYS: Plaintiff - Eugene D. Locken (Law Office of Eugene D. Locken, Lompoc).

Defendant - Kent T. Brandmeyer (Law, Brandmeyer & Packer LLP, Pasadena) for Dr. West; Bradley C. Clark (Schmid & Voiles, Los Angeles) for Dr. Watson, Santa Barbara Cardiovascular Medical Group Inc..

MEDICAL EXPERTS: Defendant - Michael Chaikin, M.D., interventional cardiology, Los Angeles; Michael Levey, M.D., cardiology, West Hills; Jeffrey Tyner, M.D., cardiothoracic surgery, San Diego.

TECHNICAL EXPERTS: Plaintiff - Darryl R. Zengler, M.A., forensic economics, Pasadena.

FACTS: Plaintiff Toby Bradley, 66, was diagnosed with a narrow aortic valve, which required replacement. On Dec. 13, 2011, she was admitted to Cottage Hospital in Santa Barbara for aortic valve replacement surgery by defendant cardiothoracic surgeon Dr. Phillip West.

Intra-operatively, Dr. West discovered that she had a very small aortic root. Although plaintiff expressed her desire to have a porcine tissue valve implanted, Dr. West decided intra-operatively to implant a mechanical valve. This was contrary to plaintiff's wishes. This required the plaintiff to be on lifelong blood thinners.

Six months post-operatively, plaintiff began experiencing shortness of breath and exercise intolerance. She underwent an echocardiogram by her cardiologist, defendant Dr. Thomas Watson. This echocardiogram diagnosed a perivalvular leak. Dr. West decided to try conservative, medical therapy. Plaintiff continued to feel poorly and eventually sought a second opinion. The second cardiologist recommended cardiac catheterization on an urgent basis. Dr. Watson went ahead and performed this test in October 2012, finding a 30 percent dehiscence of the suture line around the mechanical aortic valve previously implanted by Dr. West.

In October 2012, Dr. Vaughn Starnes at USC re-operated on plaintiff, removed the dehisced mechanical valve and replaced that with a porcine tissue valve, as was plaintiff's wish all along.

PLAINTIFF'S CONTENTIONS: As against Dr. West, plaintiff contended that he was negligent and breached the standard of care by placing a mechanical valve when a tissue valve should have been placed. Plaintiff claimed that Dr. West was below the standard of care in the technical aspects of the surgery, including suturing the valve into place, and this caused the valve to dehisce 30 percent.

As against Dr. Watson, plaintiff contended that her perivalvular leak and symptoms in July 2012 were an urgent situation, which mandated cardiac catheterization followed by valve re-operation as soon as possible. Dr. Watson delayed the diagnosis of the valve dehiscence and re-operation by some four months, resulting in permanent right ventricular hypertrophy and damage.

DEFENDANT'S CONTENTIONS: Dr. West contended that the choice of a mechanical valve, made intra-operatively, was mandated

by plaintiff's aortic root and mismatch between that and her large body habitus of 264 pounds. Dr. West contended decided to implant the mechanical valve to give plaintiff the best hemodynamic result and widest heart outflow tract. The fact that the valve did not break down at its suture line for six months was evidence that the valve was well implanted and the dehiscence was not caused by anything that occurred at the surgery.

Dr. Watson contended that, once the perivalvular leak occurred 6 months after the surgery, it was not an urgent situation. Plaintiff's vital signs were stable. She was only mildly symptomatic. The standard of care was met when Dr. Watson provided medical, conservative therapy as an alternative to surgery. When the plaintiff did not improve, it was reasonable to proceed with cardiac catheterization and then surgery to replace the valve.

INJURIES: Plaintiff claimed that she is permanently short of breath and has exercise intolerance, which limits her to walking one-half block or less at a time. Plaintiff alleged that she has poor exercise tolerance and is constantly fatigued.

Plaintiff recovered from her second surgery uneventfully.

DAMAGES: Plaintiff sought \$250,000 in general damages. Plaintiff alleged through the testimony of her cardiology expert that her life was shortened by 10 years. She therefore claimed \$1.1 million in lost income.

SPECIALS IN EVIDENCE: MEDS: \$238,000 Future MEDS: none LOE: \$75,000 Future LOE: \$238,000.

JURY TRIAL: Length, nine days; Poll, 12-0; Deliberation, 1.5 hours.

SETTLEMENT DISCUSSIONS: There were no settlement negotiations prior to trial.

RESULT: Defense verdict.