

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE Post-Operative Care

VERDICT: Defense.

CASE/NUMBER: Christine Chakarian v. Bengt F. Pehrsson, M.D. / GC048777.

COURT/DATE: Los Angeles Superior Pasadena / May 5, 2014.

JUDGE: Hon. Jan A. Plum.

ATTORNEYS: Plaintiff - Bradley I. Kramer (BikLaw Trial Attorneys, Beverly Hills); Alan Aghabegian (Aghabegian & Associates, Glendale).

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

MEDICAL EXPERTS: Plaintiff - Richard F. Corlin, M.D., gastroenterology, Santa Monica.

Defendant - Becky Miller, M.D., internal medicine, Los Angeles; Kendall S. Wagner, M.D., orthopedics, Fullerton.

FACTS: In July 2008, plaintiff Christine Chakarian, 32, sought surgical treatment from defendant Bengt Pehrsson, M.D., for obesity. Plaintiff was morbidly obese with a weight of 325 pounds. The gastric bypass surgery itself proceeded without complication on July 22, 2008. Post-operatively, plaintiff returned for check-ups with Dr. Pehrsson in his office. At each post-operative check-up, she would have a laboratory draw and see Dr. Pehrsson.

One year after the surgery, plaintiff stopped taking her iron pills because they caused constipation. In August 2010, plaintiff had her laboratories drawn. The results showed she had hemoglobin of 7.3 signifying she was anemic.

On Oct. 9, plaintiff was in a hot shower, became dizzy and passed out, fracturing her ankle. Plaintiff became sedentary and stopped exercising as her ankle healed. She gained back much of her weight that she had lost after the surgery because she was unable to exercise.

Plaintiff sued Dr. Pehrsson, claiming medical negligence.

PLAINTIFF'S CONTENTIONS: Plaintiff testified that she stopped taking the iron pills with the permission of Dr. Pehrsson. Plaintiff contended that Dr. Pehrsson failed to review her laboratory results, which showed she was severely anemic. Dr. Pehrsson had the lab results in his office for six weeks prior to her fall, yet he never saw them and never called her. The lab results did have Dr. Pehrsson's initials on them, which indicated he had seen them at some point. Dr. Pehrsson acknowledged that he never saw the lab result until after plaintiff had injured herself. Dr. Pehrsson acknowledged in deposition that he did have a responsibility to review these laboratory results and call plaintiff.

Plaintiff further contended that, if Dr. Pehrsson had informed her of her anemia, she would have resumed taking the iron supplements, which would have remedied her iron deficiency. Therefore, she never would have fallen in the shower and injured her ankle. She contended that her anemia was a substantial factor in causing her to fall.

DEFENDANT'S CONTENTIONS: Prior to surgery, plaintiff signed a nutrition agreement confirming that she would take vitamins, minerals and iron pills on a daily basis for the rest of her life to avoid becoming vitamin or iron deficient given her altered gastric anatomy from the surgery. Dr. Pehrsson denied he gave plaintiff permission to discontinue taking iron supplements.

On the second anniversary after her surgery, defendant contended that plaintiff received a letter from Dr. Pehrsson reminding her of the annual laboratory draw and visit. The letter was sent to plaintiff on July 6, 2010. The August 2010 lab results were sent to Dr. Pehrsson's office from the lab on Sept. 1, 2010. Dr. Pehrsson never saw the lab results and therefore never appreciated plaintiff was anemic. Additionally, plaintiff never went in for her follow-up visit despite having her labs drawn.

Defendant claimed that if he had seen the results of her tests, he would have called plaintiff. However, he otherwise had no reason to believe plaintiff was in any danger. Additionally, plaintiff did not call with any complaints, indicating her anemia was asymptomatic. She was two years out from surgery without any complications or problems. Dr. Pehrsson had his office procedure set up so that routine laboratories on stable patients would go to the patient's chart and await the patient's visit. The patient never made an appointment and never came in.

Dr. Pehrsson contended he would never allow one of his bariatric surgery patients to stop their iron, particularly if they were a young, menstruating female. Defendant argued that plaintiff created the iron deficient anemia by stopping her iron supplement intake. Defendant argued that plaintiff failed to attend her follow up visit, which was the reason why the doctor never appreciated the abnormal lab result. Defendant claimed that it was plaintiff's non-compliance that was the substantial factor in causing the fall.

INJURIES: The paramedics transported plaintiff to Glendale Adventist Hospital, where her hematocrit was 6.7. She required the transfusion of three units of blood. She then underwent open reduction and internal fixation repair of her ankle fracture with plate and screws. She also suffered weight-gain after bariatric surgery due to the ankle fracture.

SPECIALS IN EVIDENCE: MEDS: \$10,000 Future MEDS: none LOE: \$5,000 Future LOE: none.

JURY TRIAL: Length, six days; Poll, 11-1 (defense); Deliberation, one hour.

SETTLEMENT DISCUSSIONS: Plaintiff demanded \$124,000.

Defendant made a CCP 998 offer to compromise in the amount of \$50,000 and this was rejected.

RESULT: Defense verdict.