

VERDICTS & SETTLEMENTS

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PERSONAL INJURY

MEDICAL MALPRACTICE
Negligence

VERDICT: Defense.

CASE/NUMBER: Lawrence
Crawford, Donna Crawford v.City of Hope
Medical Group / GC037827.COURT/DATE: Los Angeles
Superior Pasadena / June 22, 2009.

JUDGE: Hon. Jan A. Plum.

ATTORNEYS: Plaintiff - Patricia A.
Law (Law Offices of Patricia A. Law,
Riverside).Defendant - Kent T. Brandmeyer,
Yuk K. Law (Law + Brandmeyer,
LLP, Pasadena).MEDICAL EXPERTS: Plaintiff
- Basin Abdelkarim, M.D.,
gastroenterology, Upland; John
Lim, M.D., diagnostic radiology,
Huntington Beach; Howard E.
Pitchon, M.D., infectious diseases,
Beverly Hills; Joseph A. Scoma,
M.D., colorectal surgery, San Diego.Defendant - Thomas L. Kun, M.D.,
gastroenterology, Santa Monica;
Michael J. Stamos, M.D., general
surgery/colon and rectal surgery,
Orange.TECHNICAL EXPERTS: Plaintiff
- Tamorah Hunt, Ph.D., economics,
Santa Ana.Defendant - Jennie McNulty, CPA,
economist, Los Angeles.FACTS: Plaintiff Lawrence
Crawford, 59, was diagnosed with
stage 3 rectal cancer in the summer
of 2004. The cancer was determined
to be low in the rectum and had
spread to 16 lymph nodes outside of
the rectum. The plaintiff had a less
than 50 percent chance of surviving
five additional years.On Oct. 27, 2004, the plaintiff was
admitted to City of Hope National
Medical Center (City of Hope) for a
surgery to remove his rectal cancer
and positive lymph nodes. performed a low anastomosis
just above the level of the sphincter
at City of Hope. There was also a
diversion of stool into a colostomy
bag. In addition to the surgical
removal of the cancer, the plaintiff
was treated with both radiation and
chemotherapy.After his surgery, in December
2004, he complained of extremely
high levels of pain, which could not
be controlled by pain medications.
He also complained of foul-smelling
odor and bloody discharge out of his
rectum. He was seen by defendant
gastroenterologist Dr. [redacted]
who performed a colonoscopy.
Dr. [redacted] diagnosed plaintiff
with severe tissue damage and
ulcerations in his rectum. Dr. [redacted]
determined that the patient's rectum
would take a very long time to heal
and may never heal. It was decided
between the plaintiff and Dr. [redacted]
that they would make an effort to
heal the rectum so that, eventually,
plaintiff could have his colostomy
bag removed and he could again
defecate normally.During 2005, the plaintiff continued
to complain of massive amounts of
pain, foul odor, and discharge. He
underwent chemotherapy during
this time.In April 2005, Dr. [redacted] claimed
he attempted to schedule a repeat
colonoscopy to see how the rectum
was healing. The plaintiff denied any
scheduling of this procedure.By September 2005, plaintiff had
completed his chemotherapy. He
again saw Dr. [redacted] who wanted to
perform a repeat colonoscopy to see
how the rectum was healing. The
colostomy could only be reversed if
the rectum had healed. This cannot
be determined unless a scope was
placed in the rectum to look.Later in September 2005, because
plaintiff was at risk for recurrence
of his aggressive rectal cancer, he
underwent a CT scan. The scan
showed a possible recurrence.
The plaintiff underwent a needle
biopsy of his rectum to look for
recurrence. The pathology on the
biopsy was negative. However, the
radiologist performing the needle
biopsy noticed pus aspirating from
his biopsy needle. This was sent for
culture and grew out E. coli.Defendant Dr. [redacted] saw
the patient after this point in time
and presumed that the pus was
contents from the patient's rectum.
He believed the biopsy needle had
inadvertently entered the rectum
when the radiologist was attempting
to get tissue for the cancer biopsy.
The radiologist testified that he did
not think his biopsy needle entered
the rectum, but was only in the
tissue surrounding the rectum.In November 2005, efforts to get
plaintiff back in for a colonoscopy
and further examination by Dr. [redacted]
were unsuccessful.On Dec. 14, 2005, the plaintiff was
brought in by paramedics to Los
Robles Community Hospital in
Thousand Oaks. He had a fever of
104°, massive abdominal pain, and
was diagnosed as being in septic
shock. He nearly died.Six days later on Dec. 20, he was
brought to surgery and the Los
Robles surgeon, Dr. David Chi,
discovered what he described as a
massive pelvic abscess and a total
breakdown of the anastomosis
performed at City of Hope 14
months earlier. Additionally, E. coli
was growing out of the patient's
blood stream, along with C. difficile.The plaintiff remained in the
hospital for several weeks. When he
was discharged, he had a very large
wound dehiscence in his abdomen
from the surgery necessitated to
clean out the infection. He continued
to experience significant abdominal
pain.One year later, he was diagnosed
with esophageal cancer, unrelated
to his prior rectal cancer. The
surgical efforts to treat the
esophageal cancer were complicated
by his prior surgery to treat his
sepsis. Notwithstanding this, the
esophageal cancer was caught early
and he is considered cured from
this.As of the time of the trial, some
four years and six months after his
initial cancer treatment, the plaintiff
remained cancer-free and without
any recurrence of his rectal cancer.

PLAINTIFF'S CONTENTIONS:

As against Dr. [redacted] the plaintiffs
contended that, based upon Dr.
[redacted] observations of plaintiff's
rectum in December 2004, this
lesion would never heal. The rectum
was ischemic from surgery and it
had also been treated with radiation.
All of this damaged the rectum and
rectal tissue to such an extent that
it would never heal. Therefore, Dr.
[redacted] never should have advised
the patient that an effort should be
made to heal the rectum. Rather,
he simply should have advised the
patient to proceed with the removal
of the rectum and permanent
closure of the sphincter. This would
have resulted in a permanent
colostomy.Thereafter, during the ensuing
14 months, the rectum continued
to deteriorate and die. This was
evidenced by the unremitting pain,
foul odor, and discharge. Again, Dr.
[redacted] was negligent for allowing this
situation to go on for so long. He
should have been more aggressive
in monitoring the plaintiff with more
colonoscopies more often. Had he
done this, he would have discovered
that the rectum was dying and
should have been removed before
the patient became septic. The
tissue in the rectum was a setup
for infection and made the ultimate
septic shock experienced by the
plaintiff foreseeable.As to Dr. [redacted] the plaintiffs
contended that Dr. [redacted] was
negligent for failing to appreciate
that the pus obtained by the
radiologist during his needle biopsy
of the rectal tissue was evidence
of an abscess. The radiologist who
did the biopsy, himself from City
of Hope, testified in trial that his
needle did not enter the rectum, and
therefore the pus-like fluid was from
outside the rectum and in the peri-
rectal tissue. This, by definition, is
an abscess. Dr. [redacted] should have had
the patient admitted, placed an IV
antibiotics, and drained his abscess.
Because he did none of these things,
and simply ignored the pus obtained
by the radiologist during the needle
biopsy, the plaintiff eventually went
into full-blown septic shock and
developed a massive pelvic abscess,
which had to be surgically evacuated
at his local community hospital, Los
Robles.In addition to their hired experts,
the plaintiffs called the treating
surgeon from Los Robles, Dr. David
Chi, to testify on these points,
including the fact that he saw with
his own eyes the abscess in the
pelvic cavity and the breakdown
of the anastomosis, which would
indicate negligence on the part
of the City of Hope physicians for
allowing the patient to have a dying
rectum for so long without any
definitive plan or treatment.

DEFENDANT'S CONTENTIONS:

Dr. [redacted] contended that it was
reasonable to attempt to heal
plaintiff's rectum. The patient
himself desired to avoid permanent
colostomy, and Dr. [redacted] advised
plaintiff that, to heal the rectum, it
would take a long period of time.
Dr. [redacted] also attempted to monitor
the situation by repeat colonoscopy
in April 2005, but the patient
cancelled the procedure. This was
non-compliance that Dr. [redacted] could
not control. Dr. [redacted] next saw
the patient in September 2005, at
which time he was feeling somewhat
better. Therefore, it was reasonable
to schedule another colonoscopy to
determine whether a takedown of
the colostomy could occur. Again,
this procedure did not take place
for reasons involving patient non-
compliance.As to Dr. [redacted] he reasonably
concluded that the pus obtained by
the radiologist was rectal contents
and not evidence of an abscess.
The radiologist's needle went
immediately adjacent to the rectum
when he was biopsying tissue to
determine whether there was cancer
recurrence. There was no other
fluid collection in the peri-rectal area
besides the rectum itself, which
was filled with fluid despite being
diverted. The culture grew out E.
coli and other bacteria typically
found in the bowel. The patient had
no signs or symptoms of infection
or any pain complaints. Dr. [redacted]
therefore determined that, clinically,
there was no evidence of infection.
Therefore, the sepsis, which did
develop some eight weeks after
the biopsy, was entirely unrelated
to anything that occurred at City
of Hope. At no time did Dr. [redacted] or
any other City of Hope physicians
receive any notice or indication from
the patient that he was feeling well
or had any signs or symptoms of
infection.Finally, because the plaintiff had a
new and sudden onset of infection
symptoms in mid-December and
presented to Los Robles with this
history, the infection experienced by
plaintiff had no causal relationship
to anything that occurred at City of
Hope, including the pus obtained
during the needle biopsy. The
plaintiff had no signs or symptoms
of infection during the eight weeks
between the needle biopsy and
the admission to Los Robles. The
infectious process at Los Robles was
different and unrelated.INJURIES: The plaintiff suffered life-
threatening sepsis and septic shock
necessitating additional surgery,
which "mutilated" the plaintiff's
rectal area thus causing lifelong
pain necessitating large quantities
of narcotic pain medication.
Additionally, the plaintiff's treatment
for his esophageal cancer was
complicated because of his sepsis
and the surgery needed to cure
the septic problem. The plaintiff
alleged that, because of the pain
and problems related to the pain,
he is basically confined to the home
and can no longer work or enjoy a
reasonable quality of life.DAMAGES: The plaintiffs claimed
\$250,000 as to Lawrence Crawford
and \$250,000 as to Donna Crawford
for loss of consortium.The plaintiffs made a loss of
household services claim in the
amount of \$200,000.SPECIALS IN EVIDENCE: MEDS:
Medical bills were covered by
insurance. There were no claims
for future medical bills. LOE: The
plaintiff contended that, because
of his sepsis and problems related
thereto, his glass contracting
company collapsed. The plaintiff
subcontracted with commercial
builders to provide and install glass
on commercial buildings, including
casinos, hotels and office buildings.
Because of the pain from his medical
treatment, he has not been able to
provide bids on construction jobs
and no longer earns any money
in this business. The plaintiffs
therefore asserted a lost earnings
claim of about \$1 million, past and
future.JURY TRIAL: Length, 15 days;
Poll, 12-0 (no negligence as to Dr.
[redacted], 9-3 (Dr. [redacted] was negligent),
9-3 (no causation as to Dr. [redacted];
Deliberation, 1.5 days.

RESULT: Defense verdict.