

VERDICTS & SETTLEMENTS

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PERSONAL INJURY

MEDICAL MALPRACTICE

Negligent Blood Draw

VERDICT: Defense.

CASE/NUMBER: Rhonda Rose, Jonathan Rose v. Motion Picture & Television Fund / PC047887.

COURT/DATE: Los Angeles Superior Chatsworth / Sept. 7, 2012.

JUDGE: Hon. Randy Rhodes.

ATTORNEYS: Plaintiff - Gerald I. Sugarman (Law Offices of Gerald I. Sugarman, Arroyo Grande); Yoshiaki C. Kubota (Chambers, Noronha & Kubota, Santa Ana).

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

MEDICAL EXPERTS: Plaintiff - David Boozer, LVN, licensed vocational nursing, Ventura; Irwin Lehrhoff, Ph.D., clinical psychology, Los Angeles; Brian Shih, M.D., anesthesiology, Los Angeles; Edward A. Smith, M.D., neurology, Santa Maria.

Defendant - Edwin C. Amos, III, M.D., neurology, Santa Monica; Nancy Henry, R.N., nursing, Torrance; Lester Zackler, M.D., neuropsychiatry, Sherman Oaks.

FACTS: Plaintiff Rhonda Rose, a registered licensed dental hygienist, received her medical care at defendant Motion Picture & Television Fund's (MPTF) outpatient clinic in Valencia. On Dec. 11, 2009, following an annual physical examination, Plaintiff went to the blood draw station in the clinic for blood tests. Plaintiff claimed MPTF's employee, Doris Goede, a licensed vocational nurse, performed the venipuncture without using gloves.

Goede was unhappy about performing a blood draw during her lunch break as asked to do so by Rose's primary care physician. Goede failed to follow the vocational nursing standards of practice by not wearing gloves, not following infection control guidelines, improperly inserting the needle and hitting a nerve then moving the needle and allowing it to drop to the side while still in Rose's arm. Pictures revealed a large hematoma and a scratch mark from Goede. Goede had no complete memory of this particular blood draw.

Plaintiff claimed that Goede improperly placed the syringe into her left antecubital space and hit a nerve, causing immediate electrical shock to her fourth and fifth fingers, followed by numbness and pain in her entire left upper extremity. She left the clinic in extreme pain following the completion of the blood draw, but was not evaluated by another healthcare provider. Upon insertion of the needle, Rose claimed that Goede caused immediate electrical shock and felt tingling and burning down her forearm and into her fourth and fifth fingers, once the needle was rotated out of the nerve the tingling stopped followed by numbness, all the while causing extreme pain. The blood draw was not terminated at this time, it continued.

PLAINTIFF'S CONTENTIONS: Plaintiff claimed that MPTF was vicariously liable for Goede's negligent blood draw that caused nerve injury in her left arm, resulting in Type II complex regional pain syndrome.

DEFENDANT'S CONTENTIONS: MPTF contended that Goede acted within the standard of care in performing the venipuncture, as Plaintiff's version of the facts did not comport with the physical evidence, such as the layout of the blood draw station, and medical evidence, such as a blood draw could not have been completed if a nerve was hit. Additionally, on the issue of causation, MPTF contended that Plaintiff's treating physicians failed to follow the internationally accepted diagnostic criteria for complex regional pain syndrome and, more importantly, these treating physicians failed to diagnose a somatoform disorder that was characterized by manifestation of physical pain from suppressed emotional trauma, as Plaintiff had a history of significant negative events in her life followed by pain syndromes in other parts of her body for which her physicians could not find an organic cause.

INJURIES: A somatoform disorder was only found by Dr. Amos and Dr. Zackler for the defense, characterized by manifestations of physical pain from past events that created current trauma. Rose has a history of a pain in one other area of her body that was later found to have an organic cause.

Plaintiff, who was left-hand dominant, claimed she had a huge hematoma in the antecubital space and continued to have pain, numbness and coldness in her entire left arm and hand. Rose continues to have pain, weakness, numbness, coldness, discoloration (blue and purple) and burning in her entire left arm and hand. These conditions were noted by Rose's primary care physician and treating doctors.

Rose was diagnosed by seven experts to have Complex Regional Pain Syndrome. Dr. Brian Shih, provided temporary relief by giving her seven stellate ganglion block procedures. Rose did not return to work due to her disability and the inability to hold dental instruments.

Plaintiff received psychological counseling for her debilitating pain syndrome from Irwin Lehrhoff, Ph.D. One of Dr. Lehrhoff's expertises is in handling and learning how to live with chronic pain.

Dr. Shih testified that Plaintiff would require the implantation of a spinal cord stimulator in order to divert and reduce the pain.

DAMAGES: \$250,000 (MICRA cap on non-economic damages).

SPECIALS IN EVIDENCE: MEDS: \$26,000 Future MEDS: \$130,000 for the implantation of the spinal cord stimulator and the replacement batteries. LOE: \$136,000 Future LOE: Between \$350,000 to \$700,000, based on annual salary of \$70,000 for a five to 10-year period to rehabilitate her arm and hand following the implantation of the spinal cord stimulator.

JURY TRIAL: Length, eight days; Poll, 12-0 (no negligence); Deliberation, three hours.

SETTLEMENT DISCUSSIONS: Plaintiff made a CCP 998 demand of \$750,000. Defendant offered a waiver of costs during discovery, and \$50,000 immediately before jury selection.

OTHER INFORMATION: Defendant will file a bill of costs.