

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE

Negligent Surgery

VERDICT: Defense.

CASE/NUMBER: Nahum
(Nathan) Sher-Sagi v. Kamyar
Amini, M.D. / PC049578.

COURT/DATE: Los Angeles
Superior Van Nuys / Nov. 6, 2013.

JUDGE: Hon. Michael B. Harwin.

ATTORNEYS: Plaintiff - Scott
E. Mann (Mann & Elias, Los
Angeles).

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

MEDICAL EXPERTS:

Plaintiff - Franklin G. Moser,
neuroradiology, Los Angeles;
David B. Okun, M.D., internal
medicine/oncology, Laguna Hills;
Dale H. Rice, M.D., head and neck
surgery, Los Angeles.

Defendant - Robert Adair, M.D.,
head and neck surgery, Santa
Monica; Charles Schatz, M.D.,
radiology, Beverly Hills; Michael
Van Scoy-Mosher, M.D., oncology,
Los Angeles.

FACTS: In October 2008, plaintiff
Nahum Sher-Sagi, 58, noticed a
lump on the left side of his face by
the jaw line that caused pain. He
had an ultrasound, CT scan and
MRI, which showed there was an
ill-defined lesion in the tail of the
left parotid (salivary) gland.

In November 2008, defendant
Dr. Kamyar Amini, a head and
neck surgeon, evaluated plaintiff
and performed a fine needle
biopsy that was inconclusive in
ruling out malignancy. Dr. Amini
offered plaintiff a superficial
parotidectomy, which plaintiff
accepted.

On Jan. 13, 2009, Dr. Amini
performed a superficial
parotidectomy and removed the
tail portion of the left parotid
gland. The pathologist found the
mass within the parotid tissue
to be a reactive lymph node
and chronic parotiditis, with no
evidence of malignancy.

Plaintiff returned to Dr. Amini for
two post-operative visits in January
2009, but did not return for his
scheduled visit in March 2009.

In January 2010, plaintiff began to
feel a lump on the left side of his
face and numbness in his cheek.

In March 2010, he went to see
another head and neck surgeon,
Dr. Mark Kerner, who reviewed
new MRI scans and noted that
plaintiff had a mass in the left
parotid gland. Dr. Kerner
performed a total parotidectomy
on plaintiff in April 2010, and the
pathology study showed plaintiff
had basal cell adenocarcinoma
of the parotid gland, Stage IV.
Thereafter, plaintiff had radiation
therapy to the left side of his face.

PLAINTIFF'S CONTENTIONS:
Plaintiff contended that Dr. Amini
mistakenly removed a lymph node
when he operated on plaintiff in
January 2009, and Dr. Amini left
the malignant tumor in the parotid
gland. Plaintiff argued that Dr.
Amini should have ordered a post-
operative MRI, which would have
shown that the tumor remained in
the parotid gland after the surgery.
Plaintiff also contended that as a
result of Dr. Amini's negligence,
the subsequent surgery was more
extensive, including the sacrificing
of his left facial nerves, resulting
in left facial paralysis, inability to
salivate, slurred speech, lost of
taste, and inability to close his left
eyelid. He also had to undergo
radiation therapy due to the
growth of the tumor.

DEFENDANT'S CONTENTIONS:
Dr. Amini contended that he
removed the tail portion of the
parotid gland, including the
offending mass, which turned
out to be a reactive lymph node
within the gland, and he explored
the entire gland during the
surgery but found no evidence of
any abnormality. As plaintiff did
not return to him after the two
post-operative visits in January,

Dr. Amini argued that he had no
opportunity to reassess plaintiff to
determine if a post-operative MRI
was indicated. Lastly, in terms
of causation, Dr. Amini claimed
that the tumor removed by Dr.
Kerner in April 2010 was not
present during his January 2009
surgery, but it was a new tumor as
the result of metastasis from skin
cancer that plaintiff had removed
in 2005 and plaintiff is now 80-90
percent cured of the parotid gland
cancer.

INJURIES: Plaintiff claimed to
have suffered left facial paralysis,
disfigurement, loss of enjoyment
of life, humiliation, and emotional
distress.

DAMAGES: Plaintiff asked the
jury to return \$250,000 for past
non-economic damages, and an
additional \$250,000 for future non-
economic damages.

JURY TRIAL: Length, six days;
Poll, 12-0 (no negligence);
Deliberation, 54 minutes.

RESULT: Defense verdict.

OTHER INFORMATION:
Defendant will seek recovery of
costs and expert fees.

FILING DATE: Nov. 8, 2010.