

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE Wrongful Death

VERDICT: Defense.

CASE/NUMBER: Siu Ling Wong, Siu Quon Wong, Connie Wong, Wing Yu Wong, Wing Sun Wong, Wing Kong Wong, and Wing Kok Wong v. Shan C. Chu, M.D. / GC048539.

COURT/DATE: Los Angeles Superior Long Beach / Feb. 5, 2015.

JUDGE: Hon. Patrick T. Madden.

ATTORNEYS: Plaintiff - Sean Hennessey (Law Office of Sean Hennessey, Westminster); Liem H. Do, Paul Pham (Liem H. Do & Associates, APLC, Westminster).

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

MEDICAL EXPERTS: Plaintiff - Vladimir Levicky, M.D., pathology, Los Angeles; James Lineback, M.D., internal medicine, Newport Beach.

Defendant - Stanford R. Schwimer, radiology, Beverly Hills; Andrew S. Wachtel, M.D., pulmonology, Los Angeles.

FACTS: In August 2010, patient Yu Jiang, 86, underwent a CT scan, which showed a 1.4-centimeter mass inside the bronchus of her lung. Three months later in November 2010, the CT scan was repeated and again showed the same mass at the same size. The radiology report from the second CT scan stated that the mass may have been inside the bronchus or also may have been inside a blood vessel outside the bronchus.

Based upon the two CT scans, defendant Dr. Shan Chu, a pulmonologist, recommended to the patient that she undergo a bronchoscopy and biopsy. His concern was a possible lung cancer.

On Dec. 9, 2010, Dr. Chu proceeded with outpatient bronchoscopy to obtain a tissue biopsy of the apparent lesion in the right lung of this patient based upon the CT scan. During the procedure, after taking a biopsy, the patient suddenly experienced massive bleeding that could not be stopped. Within two hours, the patient died.

The Los Angeles County Coroner performed an autopsy, and found a perforation in the bronchial wall and an adjoining perforation in the patient's pulmonary artery. This was the site of the bleeding, as Dr. Chu had inadvertently biopsied the patient's pulmonary artery. Additionally, the coroner, despite thoroughly dissecting the patient's lung, found no tumor or other pathology.

Plaintiffs are decedent's adult children.

PLAINTIFF'S CONTENTION: Plaintiffs contended that the bronchoscopy and biopsy never should have been performed. The patient was too old and would not have been a viable candidate for cancer treatment even if the mass shown on the CT scan were found to be positive for malignancy. They further contended that additional CT scans with contrast should have been obtained as opposed to a bronchoscopy to ensure that the mass was inside the bronchus as opposed to in a blood vessel. Plaintiffs argued that Dr. Chu performed a biopsy on the

pulmonary artery because he did not have solid CT scan evidence that this mass was intrabronchial. A relative of the patient contended Dr. Chu never mentioned any possible risks or complications related to the bronchoscopy and biopsy. Finally, plaintiffs contended that the performance of the procedure was below the standard of care because Dr. Chu thrust his biopsy forceps through the bronchial wall and into the pulmonary artery, resulting in the fatal exsanguination. Based on the coroner's report, this entire episode was avoidable because the patient never had any tumor or other pathology.

DEFENDANT'S CONTENTION: Dr. Chu contended that the procedure was necessary. A repeat CT scan confirmed the presence of the possible lesion. The only way to rule out lung cancer would be to obtain a tissue biopsy via bronchoscopy. According to his custom and practice, Dr. Chu contended he would have discussed the potential risks and complications to the bronchoscopy and biopsy with the patient, and asserted that informed consent was obtained and the procedure itself was performed in the usual careful and technically proper manner. The encountering of fatal bleeding was simply a recognized, albeit rare, complication of this procedure. The fact that the coroner never found any tumor on post-mortem examination was irrelevant.

DAMAGES: Plaintiffs sought \$25,000 in burial expenses, and \$250,000 in general damages.

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

SETTLEMENT DISCUSSIONS: Plaintiffs demanded \$250,000. Defendant offered \$0.

RESULT: Defense verdict.