

VERDICTS & SETTLEMENTS

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PERSONAL INJURY

MEDICAL MALPRACTICE Wrongful Death

VERDICT: Defense.

CASE/NUMBER: La Donna Mowrey, Jeannine Giem, James Mowrey v. Stanley K. Kawanishi, M.D., Ronald E. Pepitone, M.D. / 07CC01872.

COURT/DATE: Orange Superior / July 24, 2008.

JUDGE: Hon. Steven L. Perk.

ATTORNEYS: Plaintiff - Alton J. Smith III (Law Office of Alton J. Smith, Costa Mesa).

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

MEDICAL EXPERTS: Plaintiff - Colin M. Bloor, M.D., cardiovascular pathology, San Diego; Bernard A. Michlin, M.D., internal medicine, San Diego; Fernando Zamudio, M.D., cardiology, San Diego.

Defendant - Michael Chaikin, M.D., cardiology, Pasadena; Michael C. Fishbein, M.D., cardiovascular pathology, Los Angeles; William Klein, M.D., internal medicine, Newport Beach.

FACTS: The plaintiff's decedent, Michael Mowrey, was a 59-year-old customer service manager of a trucking company. Dr. Ronald E. Pepitone, M.D., was Michael Mowrey's primary care physician for a number of years. Mowrey had hypertension and hypercholesterolemia. In May 2005, Dr. Pepitone sent Mowrey to Dr. Stanley K. Kawanishi, M.D., a cardiologist, to stratify his cardiac risk factors. Dr. Kawanishi performed and interpreted an exercise treadmill test as normal. Mowrey returned to Dr. Pepitone on Dec. 29, 2005, with the complaint that he was having chest pain upon exertion. Dr. Pepitone was unclear as to the cause, but referred Mowrey to Dr. Kawanishi for another exercise treadmill test to rule out cardiac ischemic problems.

On Jan. 6, 2006, Dr. Kawanishi performed the test and concluded that there was no evidence of ischemia. Mowrey died unexpectedly on Jan. 11, 2006.

Plaintiff La Donna Mowrey is 61 years old and the decedent's wife; Jeannine Giem and James Mowrey are the decedent's adult children.

PLAINTIFFS' CONTENTIONS:

The plaintiffs contended that Dr. Pepitone, during the Dec. 29, 2005 office visit, should have suspected unstable angina in a patient with many cardiac risk factors who complained of chest pain upon exertion and at rest, and he should have recognized a cardiac emergency that required immediate hospitalization and medical intervention.

The allegation against Dr. Kawanishi was that the voluminous amount of artifacts on the Jan. 6, 2006 exercise treadmill test strips rendered the test useless, and Dr. Kawanishi should have taken the decedent to the cath lab for angiography. The plaintiffs further contended that Dr. Kawanishi did not perform the exercise treadmill test for a sufficient amount of time to make a diagnosis.

DEFENDANT'S CONTENTIONS:

Dr. Pepitone argued that he acted reasonably by referring the patient to Dr. Kawanishi for a repeat exercise treadmill test, and there was no indication for him to hospitalize Mowrey on Dec. 29, 2005 for emergency workup and treatment.

Dr. Kawanishi demonstrated that he was able to read the exercise treadmill test strips despite the artifacts, and he found no evidence of cardiac ischemia to indicate more invasive workup, such as angiography.

Further, with respect to causation, the defendant claimed that there was no extensive narrowing of the coronary arteries found at autopsy, and the decedent died of unpredictable and unpreventable cardiac arrhythmia.

INJURIES: Death of Michael Mowrey. Plaintiffs' loss of love, companionship and guidance.

DAMAGES: \$370,000 (past and future financial support); \$135,000 (loss of household services); \$250,000 (past and future non-economic damages).

JURY TRIAL: Length, seven days; Poll, 9-3 (no negligence as to Dr. Pepitone), 10-2 (no negligence as to Dr. Kawanishi); Deliberation, one day.

SETTLEMENT DISCUSSIONS: The plaintiffs demanded \$250,000 each from Dr. Pepitone and Dr. Kawanishi.

The defendants made no offer.

RESULT: Defense verdict.