

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE

Wrongful Death

VERDICT: Defense.

CASE/NUMBER: Debbie Woerner, Kenneth Woerner, Curtis Woerner and Wendy Woerner v. Angela Hay, M.D. / GC046272.

COURT/DATE: Los Angeles Superior Glendale / April 26, 2013.

JUDGE: Hon. Laura A. Matz.

ATTORNEYS: Plaintiff - David Hoffman (David Hoffman APC, Woodland Hills).

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

MEDICAL EXPERTS: Plaintiff - C. Thomas Boylen, M.D., pulmonology, Malibu.

Defendant - William Klein, M.D., internal medicine, pulmonology, Newport Beach; John F. Thompson, Pharm.D., clinical and forensic pharmacology, Diamond Bar; Michael Weinir, M.D., neurology, Tarzana.

FACTS: In March 2009, Dennis Woerner, 57, was diagnosed with ALS (amyotrophic lateral sclerosis).

On Nov. 6, 2009, he presented to Huntington Hospital emergency department, where he was diagnosed with a bleeding ulcer in the pyloric channel. Dennis was admitted and underwent an endoscopic procedure to treating the bleeding ulcer. At the conclusion of the procedure, Dennis was unable to breathe on his own, and Romazicon was administered to reverse the effects of versed, a benzodiazepine used for sedation during the procedure. Dennis was intubated and placed on a ventilator for several days. Defendant Dr. Angela Hay, a hospitalist who is board certified in internal medicine and pulmonary diseases, treated Dennis during his hospitalization. Dennis died on the morning of Nov. 14, 2009 while still hospitalized.

Plaintiffs are the surviving spouse, Debbie, 54, and children Kenneth, 21, and Curtis and Wendy, 14.

PLAINTIFF'S CONTENTIONS: Plaintiffs alleged that Dr. Hay should not have ordered Ativan, an anti-anxiety medication, which purportedly caused the decedent's respiratory arrest leading to his premature demise. Plaintiffs contended that Ativan, which is a benzodiazepine, was contraindicated given the decedent's history of an adverse reaction to another benzodiazepine, Versed, when he experienced respiratory arrest at the conclusion of the endoscopic procedure on Nov. 6. Further, plaintiffs alleged that Dr. Hay should have called Debbie Woerner on Nov. 13, when the decedent did not agree to have a bronchoscopy with intubation to remove a mucous plug in the main stem of the left lung, because the decedent was not mentally capable of making important medical decisions due to low oxygenation from the mucous plug in this left lung.

Plaintiffs finally claimed that they were not able to say goodbye to the decedent due to his premature death and without advanced warning from Dr. Hay.

DEFENDANT'S CONTENTIONS: Dr. Hay contended that Ativan was not contraindicated and, was necessary to relieve the decedent's anxiety in order to use a BiPAP mask to avoid apnea during sleep on the night of his death, and the Ativan did not cause the decedent to die during his sleep. Further, Dr. Hay claimed that the decedent was of sound mind when he was offered the bronchoscopy with intubation to remove the mucous plug on the morning of Nov. 13, but he refused to be intubated for the fear of remaining on a ventilator due to his respiratory compromise from the ALS.

Lastly, Dr. Hay contended that the standard of care did not require her to notify Debbie Woerner of her husband's decision not to have the bronchoscopy.

INJURIES: Death of Dennis Woerner, and the associated emotional injuries from the death of a husband and father.

DAMAGES: Plaintiffs claimed \$100,000 in general damages.

JURY TRIAL: Length, nine days; Poll, 11-1; Deliberation, 1.5 days.

SETTLEMENT DISCUSSIONS: Dr. Hay offered waiver of costs.

RESULT: Defense verdict.