

VERDICTS & SETTLEMENTS

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PERSONAL INJURY**MEDICAL MALPRACTICE**

Wrongful Death

VERDICT: Defense.

CASE/NUMBER: Edna Aftandelian, Sophia Aftandelian, Leo Aftandelian and Anthony Aftandelian v. Luciano Gomez, M.D. / EC052660.

COURT/DATE: Los Angeles Superior Burbank / Feb. 23, 2012.

JUDGE: Hon. William D. Stewart.

ATTORNEYS: Plaintiff - Luan K. Phan, Geronimo Perez (LKP Global Law, LLP, Los Angeles). Defendant - Yuk K. Law (Law, Brandmeyer + Packer, LLP, Pasadena).

MEDICAL EXPERTS: Plaintiff - Michael C. Fishbein, M.D., cardiovascular pathology, Los Angeles; Robert Kahn, M.D., family practice, Pacific Palisades. Defendant - Gerald Berry, M.D., cardiac pathology, Stanford; Alan Brown, M.D., cardiology, Los Angeles; William Klein, M.D., internal medicine, pulmonology, Newport Beach; Howard E. Pitchon, M.D., infectious diseases, Beverly Hills.

TECHNICAL EXPERTS: Plaintiff - Thomas Neches, CPA, economics, Los Angeles.

FACTS: The patient, Sergej Aftandelian, was a 36-year-old private school principal who had an upper respiratory infection and a skin rash for several weeks.

In the early afternoon of Feb. 25, 2009, the patient presented to the emergency department of Verdugo Hills Hospital with the complaint of nausea, vomiting, dehydration, and inability to urinate. A spinal tap was negative, and the emergency room physician started intravenous hydration and antibiotics, with the impression that the dehydration was likely due to an infectious or septic process. The complete blood count showed the white blood cells

count was elevated with bacteremia. At about 7 p.m., the patient was transferred to the intensive care unit under the care of defendant Dr. Luciano Gomez, who was the hospitalist on call that evening. Dr. Gomez saw the patient at about 9 p.m., and he was of the impression that there were septicemia with no clear source, hypovolemia and septic shock. Dr. Gomez's plan was to continue aggressive fluid challenge to stabilize the blood pressure, and to continue the broad-spectrum antibiotics. Dr. Gomez then left Verdugo Hills Hospital and returned to his home base that evening at nearby Huntington Memorial Hospital.

At around midnight, the patient complained of chest pain and anxiety. The ICU nurse reached Dr. Gomez, and he ordered a STAT troponin test and an EKG. When the results were available at about 1:20 a.m., the nurse tried to page Dr. Gomez, but Dr. Gomez was not available to return the pages until 2:45 a.m., at which time Dr. Gomez was told the troponin was elevated but the EKG was normal. Dr. Gomez ordered Antivan for anxiety, morphine for pain, and nitro paste if no improvement. At 3:20 a.m., the nurse called Dr. Gomez to report that the patient was sleeping. By 5 a.m., the chest pain returned, and Dr. Gomez was contacted for more medication orders. At 6:40 a.m., Dr. Gomez returned to Verdugo Hills Hospital and examined the patient, whereupon he ordered a cardiology consult. Dr. Gomez went off shift by 7:30 a.m., and by this time a cardiologist had ordered and performed an echocardiogram.

The cardiologist's impressions were acute coronary syndrome versus myocarditis, pericardial effusion, shock probable sepsis versus viral infection. The cardiologist performed pericardiocentesis and removed 120 cc of serous fluid, and he wanted to transfer the patient to Huntington Memorial Hospital for possible cardiac catheterization. However, before the transfer, the patient went into code blue at 9:06 a.m., and pronounced dead at 9:46 a.m.

The Los Angeles County Coroner did an autopsy and found multiple organ failure.

Edna Aftandelian, the decedent's wife, 39, and the decedent's minor children, Sophia, Leo, and Anthony brought this action against the defendant.

PLAINTIFFS' CONTENTIONS: Plaintiffs contended that Dr. Gomez failed to recognize and treat cardiogenic shock with vasopressors. Plaintiffs argued that there was no viral infection, because no culture grew out a virus, and therefore the cardiogenic shock was not caused by a viral infection, which the defense claimed was the untreatable cause.

DEFENDANT'S CONTENTIONS: Dr. Gomez contended that the patient had a viral infection that fulminated into a septic process and SIRS (systemic inflammatory response syndrome) that caused multiple organ failure, including the kidneys, liver, and the heart, which showed eosinophilic myocarditis. There was no medication to treat the viral process, other than supportive care with intravenous fluid hydration, and Dr. Gomez acted within the standard of care in treating the patient. Dr. Gomez's treatment was not a substantial factor in causing the death of the patient.

DAMAGES: \$296,247 (loss of household services), and at least \$250,000 (MICRA cap on non-economic damages)

SPECIALS IN EVIDENCE: LOE: \$183,148 Future LOE: \$3,870,462 and \$596,665 in retirement benefits (present cash value)

JURY TRIAL: Length, nine days; Poll, 12-0 (no negligence); Deliberation, 1.5 days

SETTLEMENT DISCUSSIONS: Plaintiffs made a CCP 998 demand for \$1 million. Defendant offered a waiver of costs.

RESULT: Defense verdict.

OTHER INFORMATION: Defendant has filed a bill of costs.

FILING DATE: April 22, 2010