

VERDICTS & SETTLEMENTS

PERSONAL INJURY

MEDICAL MALPRACTICE

Failure to Diagnose

VERDICT: Defense.

CASE/NUMBER: Jennifer Mena, Frank Mena v. Facey Medical Group, Marie Salcedo, D.O., Kevin Vuong, M.D., Atul Sharma, M.D. / PC043926.

COURT/DATE: Los Angeles Superior Chatsworth / July 13, 2010.

JUDGE: Hon. Randy Rhodes.

ATTORNEYS: Plaintiff - Kevin H. Park (Gray Duffy, LLP, Encino).

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

MEDICAL EXPERTS: Plaintiff - Kolar Murthy, M.D., neurology, Thousand Oaks; Amar Shah, M.D., emergency medicine, Los Angeles.

Defendant - Edwin C. Amos, M.D., neurology, Santa Monica; Robert F. Asarnow, Ph.D., neuropsychology, Los Angeles; William Klein, M.D., internal medicine, pulmonology, Newport Beach.

TECHNICAL EXPERTS: Plaintiff - Edward L. Bennett, M.A., vocational rehabilitation, Santa Barbara.

FACTS: On Oct. 29, 2007, plaintiff Jennifer Mena, a 34-year-old receptionist, was seen by defendant Dr. Kevin Vuong at Facey Medical Group's urgent care center with the complaint of a bad headache with nausea and vomiting. Dr. Vuong diagnosed a new onset of migraine headache and treated plaintiff with migraine medication, Imitrex.

On Oct. 31, plaintiff presented to her Facey Medical Group primary care physician, defendant Dr. Marie Salcedo with the complaint of persistent headache, nausea and vomiting. Dr. Salcedo referred plaintiff to the emergency room of Providence Holy Cross Medical Center, where a negative head CT scan was performed.

On Nov. 4, plaintiff was seen again by Dr. Vuong at the urgent care center with complaints of nausea and vomiting, for which treatment was given with relief.

On Nov. 6, plaintiff returned to Dr. Salcedo, who wrote a prescription for plaintiff to consult with a neurologist for the persistent headaches. On Nov. 21, plaintiff was evaluated by Dr. Lawrence Weinberg, a neurologist not affiliated with Facey Medical Group. Dr. Weinberg diagnosed migraine headaches, but directed plaintiff to obtain an MRI of the brain. Plaintiff claimed that she went to a local imaging center for the MRI immediately after leaving Dr. Weinberg's office, but she was told by the imaging center that she would be called back for the study in another day. Plaintiff never received the MRI ordered by Dr. Weinberg.

Plaintiff continued to have headaches and defendant Dr. Atul Sharma saw her on Dec. 2, whereupon Dr. Sharma treated the headache with the use of Imitrex.

On Dec. 3, plaintiff went to the emergency room of Providence Holy Cross Medical Center and she was again treated with Imitrex and discharged.

On Dec. 8, plaintiff collapsed at home and she was brought by ambulance to Providence Holy Cross Medical Center, where the MRI of the brain showed she had a ruptured aneurysm in the right posterior communicating artery, a subarachnoid hemorrhage, and a subdural hematoma. She underwent a craniotomy, was admitted to the hospital for about one month, and thereafter received rehabilitation at Northridge Hospital Medical Center's brain injury clinic.

She has not worked since December 2007.

PLAINTIFF'S CONTENTIONS: Plaintiffs contended that Facey Medical Group's three employee physicians should have ordered an MRI of the brain and/or a lumbar puncture to rule out an aneurysm that had a sentinel bleed. Had that been done, the aneurysm could have been surgically clipped prior to its rupture, which caused irreversible brain damage and resulted in loss of memory and executive functions, decreased IQ, and impaired cognitive functions.

DEFENDANTS' CONTENTIONS: Defendants contended that they complied with the applicable standards of care during all encounters they had with plaintiff, in that they correctly diagnosed migraine headaches, referred her to the emergency room, relied on the negative CT scan of the brain that was obtained at the emergency room, and referred her to an outside neurologist for evaluation and treatment.

Further, defendants claimed that they did not cause the alleged injuries, because it was plaintiff's failure to follow the neurologist's instruction to obtain the MRI that caused the delay in diagnosing the aneurysm.

INJURIES: Jennifer Mena suffered irreversible brain injuries with loss of memory and executive functions, decreased IQ, and impaired cognitive functions.

Frank Mena claimed loss of love, companionship, moral support, and household services from Jennifer Mena.

DAMAGES: Approximately \$250,000 for past and future non-economic damages each for Jennifer Mena and Frank Mena, who claimed loss of consortium.

SPECIALS IN EVIDENCE: MEDS: \$500,000, of which \$8,000 was not reimbursed by health insurance. Future MEDS: \$150,000 LOE: \$60,000 Future LOE: \$1 million.

JURY TRIAL: Length, 10 days; Poll, 12-0 (no negligence); Deliberation, two hours.

SETTLEMENT DISCUSSIONS: Plaintiffs demanded \$1,250,000 before trial, and \$400,000 during jury deliberation. Defendants made no offer.

RESULT: The jury returned a unanimous verdict for the defense.