

VERDICTS & SETTLEMENTS

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PERSONAL INJURY**MEDICAL MALPRACTICE**
Failure to Diagnose

VERDICT: Defense.

CASE/NUMBER: Susanne Whatley-Miller, Holly Elizabeth Miller, April Ann Miller v. Michael A. Stark, M.D., et al. / EC046648.

COURT/DATE: Los Angeles Superior Burbank / June 9, 2010.

JUDGE: Hon. William D. Stewart.

ATTORNEYS: Plaintiff - Daniel P. Powell (Thon, Beck, Vanni, Callahan & Powell, Pasadena).

Defendant - Kent T. Brandmeyer (Law, Brandmeyer + Packer, LLP, Pasadena) for Dr. Stark; John D. McCurdy II (McCurdy & Leibl, LLP, Sherman Oaks) for Dr. Cooper.

MEDICAL EXPERTS: Plaintiff - Robert Kahn, M.D., family practice, Pacific Palisades; Ronald Karlsberg, M.D., cardiology, Beverly Hills.

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

TECHNICAL EXPERTS: Plaintiff - Marianne Inouye, M.B.A., economics, Pasadena.

Defendant - Jennie McNulty, economics, Los Angeles.

FACTS: Decedent Thomas Miller was 51 years old when he saw defendant primary care physician and internist Dr. Collin Cooper on Dec. 8, 2006. Miller had complaints of chest pain that morning lasting over 20 minutes while he was in bed. He also complained to Cooper of chest pain two days earlier lasting over one hour, also in bed. The chest pain was more like a pressure, radiating into the neck. Miller also had substantial cardiac risk factors, including obesity, hypertension, history of smoking, a strong family history of heart disease and high cholesterol.

Cooper testified that his differential diagnosis included nocturnal angina, myocardial infarction and gastric reflux. Cooper performed an EKG in the office, which was interpreted as normal. For this reason, he did not send the patient to the hospital for a cardiac work-up. He did write a prescription for a treadmill stress test.

On Dec. 12, 2006, Miller presented at the Verdugo Hills Hospital treadmill laboratory for his stress test. At that time, he met defendant cardiologist Dr. Michael Stark, who was there to administer the test. Stark took a brief history, learning that Miller had chest pain the week before, but none since. The nine-minute treadmill stress test was then commenced. Miller was able to complete the test and his heart rate was measured at 160 beats per minute. Stark interpreted the test as being normal.

Clinically, the decedent did fine during the test and had no complaints of chest pain. The decedent's blood pressure, which should have increased during the test, remained flat according to the serial recording of the blood pressure during the test.

The decedent left the treadmill laboratory at Verdugo to go to his office in Glendale at about 9:45 a.m. At 10:18 a.m., he was found in full cardiac arrest at his desk. Paramedics were called but he could not be resuscitated, either in the field or at the emergency room at Glendale Adventist Medical Center.

An autopsy was performed. The pathologists discovered a small area of myocardial infarction on the posterior portion of the heart. This measured approximately 1 cm. It was determined that this small area of infarction corresponded with the patient's complaints of chest pain about one week prior to death. Miller was found to have 75 percent narrowing of his left anterior descending coronary artery, 75 percent narrowing of his right circumflex artery and 30 percent narrowing of his right coronary artery. No thrombus or plaque rupture was identified. The cause of death was determined to be myocardial infarction due to fatal arrhythmia from coronary artery disease.

PLAINTIFF'S CONTENTIONS: Plaintiffs contended that Stark breached the applicable standards of care. Plaintiffs contended that Stark breached the standard of care in virtually every way he interacted with the decedent. The initial history taken by Stark at the treadmill lab was superficial and inadequate. The treadmill test itself should not have been performed. Rather, a myocardial perfusion or nuclear imaging test should have been done. These would have been diagnostic for the small MI on the posterior portion of the heart that apparently occurred one week before. Stark misinterpreted the EKG portion of the treadmill itself. This EKG tracing showed subtle abnormalities, which were not appreciated by Stark. Finally, Stark failed to appreciate that the decedent's blood pressure was abnormal during the test. It should have risen with exercise, but it remained flat.

Plaintiffs contended that the exertion from the treadmill caused the release of adrenaline in the heart, resulting in the patient's sudden, fatal arrhythmia one hour and two minutes after the test was completed.

DEFENDANT'S CONTENTIONS: Stark contended that the decedent was the perfect candidate for a treadmill stress test. The decedent had chest pain, but it was stable as it had not recurred for a number of days. His other cardiac risk factors made the stress test an appropriate test to do. The test itself was absolutely normal based on the normal EKG tracing using standard interpretation criteria from the American College of Cardiology, the lack of chest pain, and the patient's overall clinical response. Although there was a glitch in the recording of the patient's blood pressure during exertion, the rest of the normal aspects of the case made the blood pressure response in all probability normal and the documentation error immaterial.

Defendants contended that the decedent did not die from coronary artery disease. Although there was 75 percent narrowing on autopsy, in life this would have only been about 50 percent narrowing of the coronary arteries at maximum. This is clinically insignificant and not something which would be treated in the cath lab through stenting or bypass surgery. Rather, the decedent had a rare coronary spasm causing both the small heart attack one week before death, as well as the fatal event itself. The autopsy did not show any thrombus or plaque rupture, which would rule out a classic cardiac death from coronary artery occlusion.

INJURIES: Wrongful death of 51-year-old husband and father of children under the age of 10.

DAMAGES: \$1,250,000 (past and future financial support); \$210,000 (loss of household services); \$250,000 (general damages).

SPECIALS IN EVIDENCE: LOE: \$150,000 Future LOE: \$1.1 million.

JURY TRIAL: Length, 12 days; Poll, 10-2 (as to Dr. Stark), 6-6 (as to Dr. Cooper); Deliberation, three days.

SETTLEMENT DISCUSSIONS: Plaintiffs demanded \$1,750,000. Defendants made no offer.

RESULT: Defense verdict as to Dr. Michael A. Stark.

OTHER INFORMATION: There was a hung jury with regard to claims asserted Dr. Cooper; a trial-setting conference is set for July 7, 2010.