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Patient unable to prove oral surgeon was negligent

MEDICAL MALPRACTICE-PHYSICIANS & HEALTH PROFESSIONALS

Oral Surgeon

MEDICAL MALPRACTICE-PROCEDURES & TREATMENT
Dental

LOS ANGELES COUNTY SUPERIOR COURT

Riherd v. Stepanyan, Docket number: GC040402, Pasadena.

Judge: C. Edward Simpson. Trial type: Jury: 6 days.

Verdict/Judgment date: 2/2/2010.

VERDICT: DEFENSE

Vote: 12-0. Deliberations: 1 hour.

COUNSEL

Plaintiff: John F. Denove, Cheong, Denove, Rowell & Bennett, Los Angeles.

Defendant: N. Denise Taylor, Taylor Blessey, Los Angeles.

FACTS/CONTENTIONS

According to defendant: Plaintiff David Riherd, a 41-year-old wildlife educator, consulted defendant Martin Stepanyan, D.M.D., an oral and maxillofacial surgeon, for orthognathic surgical treatment for plaintiff's maxillary hypoplasia (underbite) on August 18, 2005. After orthodontic treatment (Phase I) and an additional consultation on September 22, 2006, defendant performed a Le Forte I Segmental Maxillary Osteotomy with advancement of 9 mm and down-grafting of 3 mm on December 1, 2006.

On December 21, 2006, the surgical splint was removed and posterior relapse of 3 mm was noted. Plaintiff returned to surgery on December 28 for correction of the relapse. Plaintiff alleged pain and suffering with regard to the second surgery. Plaintiff claimed the second surgery resulted in a widening of his nose, requiring a subsequent rhinoplasty. He also claimed permanent numbness of his gums and teeth.

Plaintiff alleged that defendant fell below the standard of care in utilizing 2 1.5 Lindorf plates for rigid internal fixation, instead of the required 4 plates; that defendant failed to bone graft the osteotomy; that IMF elastics rather than wires were used; that 9 mm advancement was extreme; and that defendant should have considered surgery on both the maxilla and mandible as an alternative. All of the above caused the surgical relapse. Defendant utilized 4 plates and wires in the redo surgery. Plaintiff alleged that the surgery resulted in a worsening of his cosmetic appearance, necessitating a rhinoplasty.

Defendant contended he met the standard of care. He claimed that only 2 plates are required by the standard of

care for maxillary advancement; 9 mm advancement is within the standard of care and a combination jaw surgery was contraindicated; elastics were appropriate IMF fixation as an adjunct to the plates; and bone grafting was not necessary because there was good bony contact with the osteotomy at surgery. Defendant said rhinoplasty was an option discussed with plaintiff as part of Phase IV of the surgical plan before the first surgery and was not necessary. Plaintiff was consented for the complications of relapse, possible further surgery, and permanent numbness.

CLAIMED INJURIES

According to defendant: Additional surgery; numbness of gums and teeth; nose.

CLAIMED DAMAGES

According to defendant: Plaintiff asked the jury for \$13,100 in medical specials, and \$150,000 in general damages.

SETTLEMENT DISCUSSIONS

According to defendant: Demand: \$39,999 (CCP § 998); Offer: \$9,999 (CCP § 998).

EXPERTS

Plaintiff: William C. Ardary, D.D.S., oral surgeon, Arcadia (626) 441-0728.

Defendant: Lester Machado, D.D.S., oral surgeon, San Diego (619) 299-3320.

EXPERT TESTIMONY

According to defendant: Plaintiff's expert, William Ardary, M.D., testified on the standard of care, causation, and damages.

Lester Machado, M.D., D.D.S., defendant's expert, also testified on the standard of care, causation, and damages.

COMMENTS

According to defendant: The complaint was filed on February 29, 2008.