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## Minor patient alleges failure to diagnose appendicitis

### MEDICAL MALPRACTICE-FACILITY

Hospital

MEDICAL MALPRACTICE-PROCEDURES & TREATMENT  
Failure to Diagnose/Treat

### LOS ANGELES COUNTY SUPERIOR COURT

*Garcia v. Childrens Hospital Los Angeles*, Docket number: BC336190, Downtown. Judge: Richard L. Fruin Jr. Trial type: Jury: 5 days. Verdict/Judgment date: 8/3/2007.

### VERDICT: DEFENSE

Vote: 9-3. Deliberations: 1 hour.

### COUNSEL

Plaintiff: Michael L. Oran, Law Offices of Michael L. Oran, Los Angeles. Richard T. Lobl, Law Offices of Michael L. Oran, Los Angeles.

Defendant: Raymond L. Blessey, Taylor Blessey, Los Angeles.

### FACTS/CONTENTIONS

According to defendant: On August 15, 2004, plaintiff Kimberly Garcia, a then-nine-year-old student, was taken to the emergency room at defendant Childrens Hospital in Los Angeles, with a three-day history of abdominal pain, intermittent vomiting and diarrhea, and painful urination. She was triaged to the Urgent Care facility, where she was evaluated by a board-certified pediatrician, Dr. Karen Kwan. According to Dr. Kwan, plaintiff's history, physical examination, and urine studies were consistent with a urinary tract infection. She also opined that plaintiff had constipation. A KUB (kidney, ureter, and bladder) film was ordered to rule out constipation. Dr. Kwan felt that there was stool present on this study.

On August 16, 2004, the radiologist read the KUB film and opined that there was evidence of stool on the left and right side, but she could not rule out the possibility of an appendicolith. In her report, the radiologist stated that a CT scan should be done if clinically indicated.

As a result of the KUB interpretation by the radiologist, and in keeping with hospital policy, plaintiff was called back to the Urgent Care facility for further examination. She was seen on August 17, 2004 by a different board-certified pediatrician. Plaintiff's physical examination remained negative for classic signs of appendicitis, including right lower quadrant pain. She was diagnosed with diarrhea, felt to be due most likely to bacterial gastroenteritis. The recommendation at discharge was for plaintiff to obtain stool studies by her primary care physician.

On August 18, 2004, at about 8:00 a.m., plaintiff was taken by her parents to Tarzana Medical Center due to increased discomfort, which now included right lower quadrant pain. A CT scan was done after she was admitted, and it showed acute appendicitis, with a 6 cm walled-off abscess. Plaintiff underwent a laparotomy on August 18, 2004, at which time her appendix was removed.

Plaintiff alleged that the standard of care required that a CT scan be performed on August 15, 2004 and August 17, 2004 to rule out appendicitis. This allegation was based on the claim that most children present atypically and that plaintiff's symptoms persisted throughout the time period she was seen at Childrens Hospital. As a result of the alleged negligence, plaintiff had to undergo an open procedure, prolonged hospitalization, and a subsequent wound-closure procedure. In addition, she was left with a large surgical scar.

Defendant University Childrens Medical Group contended that the care and treatment by its two board-certified pediatricians was reasonable and within the applicable standard of care on August 15, 2004 and August 17, 2004.

### CLAIMED INJURIES

According to defendant: Open-procedure appendectomy; prolonged hospitalization; scarring.

### CLAIMED DAMAGES

According to defendant: \$21,000 Medi-Cal lien.

### SETTLEMENT DISCUSSIONS

According to defendant: Demand: \$199,999.99 (CCP § 998). Offer: Dismissal with prejudice in exchange for waiver of costs (CCP § 998).

### EXPERTS

Plaintiff: Robert Cole, M.D., general surgeon, Santa Monica. Russ J. Kino, M.D., emergency physician, Santa Monica (310) 582-7084.

Defendant: Edward A. Massey, M.D., emergency medicine, Beverly Hills. Harry Applebaum, M.D., pediatric surgeon, Los Angeles (323) 783-4901.

### EXPERT TESTIMONY

According to defendant: Plaintiff's expert Dr. Kino, board-certified emergency medicine physician, testified that the diagnosis of appendicitis should have been pursued on both occasions at Childrens Hospital by doing a CT scan of the abdomen as required by the standard of care. The differential diagnosis of constipation, urinary tract infection, and bacterial gastroenteritis with diarrhea, was not supported by the clinical findings.

Plaintiff's expert Dr. Cole, board-certified general surgeon, testified that plaintiff's appendix ruptured after the second urgent care visit on August 17, 2004 and before presenting to Tarzana Medical Center on the morning of August 18, 2004. This opinion was based on the change in plaintiff's

clinical condition and signs of a severe infection. As a result of the rupture, plaintiff was no longer a candidate for laparoscopic removal of her appendix. Consequently, the only option left for her was to undergo an open procedure, which subjected her to a prolonged hospitalization, a large surgical scar, and an increased risk of adhesions.

Defense expert Dr. Massey, board certified in pediatrics, internal medicine, and emergency medicine, testified that the care and treatment of the two board-certified pediatricians at Childrens Hospital was reasonable and within the standard of care under the circumstances. Their differential diagnoses were supported by plaintiff's history, physical examination, and laboratory findings.

Defense expert Dr. Applebaum, board certified in surgery and pediatric general surgery, testified that treatment options on August 18, 2004 included an open procedure or intravenous antibiotics and percutaneous drainage of the abscess. The benefit of the more conservative approach is the avoidance of a prolonged hospitalization, surgical scar, need for a subsequent drainage of an abscess, and risk of adhesions.

#### COMMENTS

According to defendant: The complaint was filed on July 6, 2005.

Defendant Childrens Hospital was dismissed with prejudice prior to trial.