

VERDICTS & SETTLEMENTS

FRIDAY, NOVEMBER 18, 2011

PERSONAL INJURY

Medical Malpractice

Negligent Implant Placement

VERDICT: Defense

CASE/NUMBER: *Linda Petzoldt, Robert Petzoldt v. Ramsey Amin, M.D. / EC050944.*

COURT/DATE: Los Angeles Superior Burbank / Nov. 2, 2011.

JUDGE: Hon. William D. Stewart.

ATTORNEY:

Plaintiff — Marcus A. Petoyan (Gianni Petoyan, Attorneys at Law, Pacific Palisades).

Defendant — N. Denise Taylor (Taylor Blessey, LLP, Los Angeles).

MEDICAL EXPERTS:

Plaintiff — Gary L. Wyatt, D.D.S., oral surgery, Newport Beach.

Defendant — Mary A. Delsol, D.D.S., oral maxillofacial surgery, Dana Point; Raymond Melrose, D.D.S., oral pathology, Los Angeles; Sandra Wallace, infectious diseases, Pasadena.

FACTS: In April 2007, plaintiff Linda Petzoldt, 60, was referred to defendant Ramsey Amin, M.D., for extraction of tooth number 30 and placement of an implant. For other unrelated medical reasons, she did not return for the treatment until June 26, 2008, for another consultation and x-rays, and had the extraction with bone grafting on July 11, 2008.

On Dec. 2, 2008, the implant was placed. Three days later, plaintiff developed numbness and symptoms of infection. She was prescribed antibiotics, and was seen in the office on Dec. 8. When the infection did not resolve, the implant was removed on Dec. 15. On Dec. 19, the infection appeared to be resolved, however, symptoms returned on Dec. 22. The patient did not return to defendant, but was hospitalized on Dec. 23, for two days for management of a severe infection. She thereafter had multiple hospitalizations and surgeries for osteomyelitis, and ultimately, in Sept. 2009 had the majority of her jaw removed and reconstructed.

PLAINTIFF'S CONTENTIONS: Plaintiff contended that defendant was negligent in failing to recognize that the patient was at a higher risk of infection with oral surgery because of her prior Fosamax and steroid use; failed to give antibiotics intra and post extraction; failed to closely monitor the patient between the extraction and graft, and

the implant, failed to take a pre-operative implant x-ray, failed to give antibiotics post-operatively, failed to give the appropriate type of antibiotic when the post-operative infection developed, and failed to immediately remove the implant once the infection developed.

Plaintiff alleged that as a result of the above negligence, the patient developed osteomyelitis (infection) of the mandible (jaw) and was subjected to multiple courses of intravenous antibiotics, multiple hospitalizations and surgeries, that culminated in the removal of multiple teeth, and most of her jaw, with reconstruction and facial disfigurement.

DEFENDANT'S CONTENTIONS: Defendant contended that the standard of care was met in all respects, and that patient's osteomyelitis developed as a result of an underlying osteonecrotic jaw, due to Fosamax use and other medical conditions, and not as a result of improper management of patient's oral infection. Defendant contended that the patient received informed consent for the risks of the procedures, including osteonecrosis due to Fosamax and infection.

DAMAGES: Plaintiffs asked the jury for \$600,000 in general damages for Linda Petzoldt, and \$300,000 for loss of consortium for Robert Petzoldt. Plaintiff also asked for \$259,388 for past medical specials. It was stipulated that this was the amount of the Motion Picture Insurance Fund lien that would have to be repaid in the event of a plaintiff's verdict.

JURY TRIAL: Length, eight days; Poll, 12-0; Deliberation, one hour.

RESULT: Defense verdict.

EXPERT TESTIMONY: Dr. Gary L. Wyatt, D.D.S., testified that defendant breached the standard of care by failing to give intra-operative and post-operative antibiotics at the time of the extraction and graft placement, which was required in particular for this patient because of her history of steroid use, asthma, and her history of Fosamax use, which carries with it a risk of osteonecrosis to the jaw. He testified that there was an underlying bacterial infection in the mouth at the time of the extraction as evidenced by a periapical lucency in the pre-extraction x-ray, and greenish tissue that was removed at the time of the extraction and sent to pathology. He testified that the bone became infected since the patient was not placed on antibiotics at the time the graft was placed. He testified that x-rays should have been taken to monitor the

patient's bone between the time of the graft and the implant, which would have shown osteolytic lesions in the bone consistent with osteomyelitis.

Dr. Wyatt also testified that the standard of care required that defendant, at the time of the implant, put plaintiff on a seven-day course of Clindamycin post-operatively, and that his failure to give antibiotics was negligent. When the patient developed the infection, he was negligent in giving Zithromax instead of Clindamycin, and for failing to immediately remove the implant. He further testified that defendant's negligence was the cause of patient's development of osteomyelitis of the bone, which resulted in damages including the loss of several teeth, the removal of the jaw and need for reconstruction, and resultant facial deformity.

Dr. Mary A. Delsol, D.D.S., testified that the defendant met the standard of care. There was no evidence of infection at the time of the extraction and graft, and the standard of care did not require antibiotics. The graft healed well, and there was no evidence of infection at the time of the implant placement, and antibiotics were not required post-operatively. Once the infection developed, the defendant properly prescribed antibiotics, and the standard of care did not require that he remove the implant until it was apparent that the antibiotics didn't resolve the infection.

Dr. Delsol testified that the patient was pre-disposed to osteonecrosis of the jaw because of her Fosamax and steroid use, and that in retrospect, the patient developed the osteomyelitis of the jaw because the jaw was already osteonecrotic at the time of the implant placement.

Dr. Raymond Melrose, D.D.S., testified that the pathology that defendant submitted from the area of the extraction was a follicular cyst that was inflammatory tissue with no bacteria present. Therefore, at the time of the extraction and graft, there was no infection.

Dr. Sandra Wallace, M.D., testified that this patient likely had an underlying, undiagnosed autoimmune disorder that along with the Fosomax, caused her jaw to become osteonecrotic, and that no amount of antibiotics would have changed her outcome. She testified that the difference between the Zithromax and Clindamycin, once the patient became infected, was negligible and made no difference in the outcome either.

FILING DATE: Sept. 2, 2011.