



Defense Lawyers
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November 2011 Verdicts

Submitted By	Brenda M. Saiz Rodey Law Firm bsaiz@rodey.com (505) 768-7282
Court	State Court
County	Bernalillo
Judge	Hon. Beatrice Brickhouse
Defense Counsel	Charles K. Purcell & Brenda M. Saiz
Plaintiff Counsel	Robert Bruce Collins, Holly Rene Harvey, Charlotte Mary Toulouse
Trier	12-Person Jury
Style	<i>Crystal Abeyta, individually, as mother and Personal Representative of the Estate of Mercedes Rubi Cruz, deceased, Plaintiff v. Presbyterian Healthcare Services, Defendant</i> , No. CV 2010-01216 (N.M. 2d Judicial Dist. Ct.)
Statement of Facts	<u>Medical malpractice case</u> : Mercedes Rubi Cruz died at approximately 13 months of age. Plaintiff claimed that Presbyterian had ignored classic symptoms of a bowel obstruction caused by a retained coin in the child's intestinal tract. Plaintiff further claimed that Presbyterian had negligently failed to timely perform surgery to remove the coin and prevent the consequences of a bowel obstruction related to the coin. Presbyterian maintained that the retained coin did not cause a bowel obstruction, that the better course of action was to monitor the situation and allow the coin to pass, and that, in any event, the child died from an underlying neurological condition.
Verdict	Defense
Comments	Result: Defense verdict on 11/14/11 after 10 trial days
Experts	For the plaintiff: Dr. Carol Miller, pediatrics, San Francisco; Dr. Carol Lee, forensic pathology, Vancouver, British Columbia; Dr. Ross Zumwalt, forensic pathology, Albuquerque; Janice McIntosh, home health care nursing, Denver; Dr. Allen Parkman, economics, Albuquerque. For the defense: Dr. Phil Barton, pediatrics, Tulsa; Dr. Edward Rose, pediatric gastroenterology, Albuquerque; Dr. Paul Colombani, pediatric surgery, Baltimore; Dr. Kris Sperry, forensic pathology, Atlanta; Deborah Turner, home health care nursing, Houston; Dr. George Rhodes, economics, Fort Collins (consultant).



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Submitted By	W. Ann Maggiore Butt, Thornton & Baehr, PC wamaggiore@btblaw.com (505) 884-0777 ; fax: (505) 889-8870
Court	State Court
County	Bernalillo
Judge	Hon. Theodore Baca
Defense Counsel	W. Ann Maggiore and M. Scott Owen
Plaintiff Counsel	Jerrale Roehl and Wes Jackson
Trier	12-Person Jury
Style	<i>Dorothy Thompson, as PR of the estate of Cecil Thompson, v. Kathleen Marie Lopez, M.D.</i>
Statement of Facts	Plaintiffs alleged that Dr. Lopez missed important findings on cervical spine films taken of the 84 year old decedent at Presbyterian Hospital after he fell approximately 3-4' from a stepladder. He had complained of head and neck pain after the fall and was transported by ambulance to Presbyterian, where he was treated and released. Several hours later he lost all neurological function in his extremities and was transported by ambulance to UNMH where he was found to have a subluxation at C4-5 as well as a fractured spinous process; neither of which were not present on the Presbyterian films. Mr. Thompson subsequently died.
Verdict	Defense
Comments	We were able to demonstrate to the jury that Dr. Lopez did not miss any abnormalities on the cervical spine films.
Experts	For the defense: William Zimmer, M.D. (neuroradiology) For the plaintiff: Bruce Lovett, M.D.



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Submitted By	W. Ann Maggiore Butt, Thornton & Baehr, PC wamaggiore@btblaw.com (505) 884-0777 ; fax: (505) 889-8870
Court	State Court
County	Bernalillo
Judge	Hon. Sarah Singleton
Defense Counsel	W. Ann Maggiore and M. Scott Owen
Plaintiff Counsel	Ron Segel and Traci Olivas
Trier	12-Person Jury
Style	<i>Jean Peterson v. Steven Jones, D.O.</i>
Statement of Facts	Plaintiff alleged negligence and lack of informed consent regarding a total hip arthroplasty done with the new anterior supine approach. She alleged that she had not been informed of potential risk of injury to the lateral femoral cutaneous nerve, or the risk of leg length inequality, and that she suffered both. These are known complications of the surgery. The claim for leg length inequality did not survive directed verdict; the claims for lateral femoral cutaneous nerve injury and lack of informed consent went to the jury, which found unanimously in favor of Dr. Jones.
Verdict	Defense
Comments	We were able to demonstrate to the jury that Dr. Lopez did not miss any abnormalities on the cervical spine films.
Experts	For the defense: Robert Klenck, M.D. (orthopedic surgery – California) For the plaintiff: Sonny Bal, M.D. (orthopedic surgery – Missouri)



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Submitted By	Jeff Croasdell Rodey Law jcroasdell@rodey.com Phone: (505) 766-7563; FAX: (505) 768-7395
Court	State Court
County	Bernalillo
Judge	Hon. Ted Baca
Defense Counsel	Jeff Croasdell and Todd Rinner
Plaintiff Counsel	Robert Gorence and Brent Ferrel (Branch Law Firm)
Trier	12-Person Jury
Style	<i>MARION WYLIE as the Personal Representative of the Estate of Gloria Fenton v. PRESBYTERIAN HEALTHCARE SERVICES, d/b/a PRESBYTERIAN HOSPITAL, and PRESBYTERIAN HEART GROUP</i>
Statement of Facts	<p>On June 16, 2008, 75-year-old Glenna Fenton presented at the PHS Emergency Department via ambulance. Mrs. Fenton had long history of medical problems, including pulmonary fibrosis (scarring of the lungs). Mrs. Fenton had passed out in her kitchen that morning and injured her left ankle. At admission, the hospital doctor determined that Mrs. Fenton was medically stable for surgery on her ankle.</p> <p>Mrs. Fenton underwent ankle surgery on June 17, 2008, without incident. Following surgery, Mrs. Fenton was complaining of chest pain and pain in her left ribs. She had experienced the chest pain prior to her fall, but it was worse now. During the evening of June 17, Mrs. Fenton had a very low blood pressure and started in to shock. She also needed a significant increase in oxygen. Mrs. Fenton was given "vigorous volume resuscitation" and was given a corticosteroid to treat the shock.</p> <p>On June 18, 2008, Mrs. Fenton was transferred to cardiac critical care. By June 21, 2008, Mrs. Fenton's shock had resolved and she stabilized somewhat, but she was still very low blood oxygen levels and had low blood pressure. She also showed a growing need for oxygen. The doctor considered but did not find any evidence of any infection. Mrs. Fenton's condition continued to worsen, and by June 25, the doctor determined that she was "critically ill." On June 26, Mrs. Fenton was removed from life support and died that night.</p> <p>An autopsy was performed, and the pathologist determined that the cause of death was "complications of left ankle fracture including bronchopneumonia and diffuse alveolar damage." Plaintiff has brought suit against Presbyterian Healthcare Services claiming in general that PHS health care providers failed to diagnose and treat properly Mrs. Fenton's sepsis, and pneumonia.</p>
Verdict	Defense
Comments	<p>The jurors had determined at the close of Plaintiff's case that even if they found negligence they were only going to award \$1. According to the jurors, they were deliberating the case during the entirety of the trial and discussed the evidence according to the Court's instruction throughout the trial.</p> <p>The jury deliberated approximately 2 hours.</p>

Continued on next page



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Continued from prev page

Experts

Plaintiff:

- Dr. Eric Gluck -- Critical care/pulmonology expert. Dr. Gluck is with Swedish Covenant Hospital in the Chicago area.
- William Patterson - economist

Defense:

- Dr. Hal Collard -- Pulmonology and interstitial lung disease - Dr. Collard is with University of California, San Francisco (Excellent!)
- Dr. Louis Hamer - Critical Care - Dr. Hamer operates his own clinic in Houston
- Dr. George Rhodes - economist - Dr. Rhodes is Professor Emeritus and Colorado State University. He did not testify but provided valuable information