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VerdictSearch New York Reporter

Carlos and Mary Shuler v. Joseph Le-Kong Huang and Manuel Chiuten; No. 17138/95

Verdict Date: 05/29/1997

Topic: Medical Malpractice; Failure to Refer Plaintiff to Hand Specialist for Treatment of Abscess

Result: \$ 3,960,000 for Carlos S. v. Dr. Huang (6/0). Breakdown: \$ 1,000,000 for past pain and suffering; \$ 60,000 for past medical expenses; \$ 100,000 for past lost earnings; \$ 1,800,000 for future pain and suffering; \$ 1,000,000 for future lost earnings. \$ 660,000 for Mary S. for loss of services. Breakdown: \$ 35,000 for past loss of services; \$ 625,000 for future loss of services. The case against Dr. Chiuten was dismissed during trial. Jury: 5 male, 1 female. The result will be published in a future issue.

Disbursement: Award Total: \$ 4,620,000

Injury: Pltf., a 49-year-old hospital maintenance assistant supervisor, had been under the care of Deft. Dr. Huang for a number of years to treat a diabetic condition that was diagnosed in the late 1980s. In March 1995, Pltf. developed an abscess in his right (dominant) index finger. After seeing a physician at the Employees Health Services at Sloan Kettering Memorial Hospital, Pltf. presented to Deft. on 3/22/95. Dr. Huang drained the abscess and advised Pltf. to continue with the medication that was prescribed by the hospital. Dr. Huang continued treating Pltf. for a period of 2 months for the infection. During that time Deft. changed the antibiotic without taking a culture. Deft. testified that the infection was localized and showed improvement until late May. It was agreed during trial that the antibiotics administered by Deft. Huang were appropriate. Pltf. testified that the infection did not abate and became progressively worse. On 5/22/95, Deft. referred Pltf. to Deft. Dr. Chiuten, a plastic surgeon. Deft. Chiuten first saw Pltf. on 5/23 at which time he performed an incision and drainage and continued to keep Pltf. on antibiotics. His opinion was that the infection still was localized. Dr. Chiuten saw Pltf. in his office on 5/25 and found that the infection improved. On 5/30 Pltf.'s condition appeared to worsen and Dr. Chiuten then advised hospitalization.

Pltf. was admitted to Bronx Lebanon Hospital on 6/3/95 and remained there until 9/2/95. He underwent numerous procedures for injuries to the muscles, tendons, and nerves of his right hand. He claimed that Deft. Dr. Huang departed from good and accepted standards of care in failing to admit him to the hospital, placing him on IV antibiotics, and referring him to a hand specialist. Pltf. has a total loss of use of his right hand. In 1996, he developed an unrelated infection in his left hand that required another long hospitalization and multiple surgeries. Eventually Pltf. lost the use of his left hand.

Deft. Huang argued that he provided appropriate care and that hospitalization was not necessary since the infection had improved while he treated Pltf. He testified that the infection did not reappear until after Pltf. had sustained another trauma to his hand. Deft. claimed that the subsequent injury to the left hand indicated that Pltf. is susceptible to slow-healing infections with resulting complications. The claims against Dr. Chiuten were dismissed before the case went to the jury.

Offer: \$ 100,000; demand: \$ 1,500,000; amount asked of jury: \$ 4,000,000.

State: New York

Court: Bronx Supreme

Judge: Gerald V. Esposito

Plaintiff Attorney: Mark Basichas; Sherman & Basichas, L.L.C.; Manhattan, NY (Carlos and Mary Shuler)

Defendant Attorney: Arthur P. Xanthos; Gartner & Bloom; Manhattan, NY (Joseph Le-Kong Huang)
Eric M. Kraus; Sedgwick, Detert, Moran & Arnold; Manhattan, NY (Joseph Le-Kong Huang)

Other Demonstrative Evidence: photos; enlargements of Dr. Huang's charts and slides

Plaintiff Experts: Dr. Joshua Rubinstein; Plastic & Reconstructive Surgery
Dr. Richard Schuster, Ph.D.; Vocational Rehabilitation; Manhattan, NY
Royal A. Bunin; Economic Analysis; Philadelphia, PA, Bunin Associates

Defendant Experts: Dr. Joel Grad; Hand Surgery; Manhattan, NY
Dr. Steven Green; Hand Surgery; Manhattan, NY

Insurance: Lady of Mercy Corp

Issue: VOLUME XV/5-3