

Verdicts & Settlements

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CASE INFORMATION:

Case Name: Plaintiff v. Doe Hospital and Roe Physicians
Case Number: Confidential
Case Type: Medical Malpractice

SETTLEMENT: **\$ 20,000,000** (Approximate payout over a normal life-expectancy)
 \$ 6,500,000 (present cash value)

Court: Los Angeles Superior Court
Filing Date: September, 2008
Result Date: January, 2010

PLAINTIFF ATTORNEY:

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DEFENDANT ATTORNEYS:

Confidential

MEDIATOR: Jay Horton, Esq.

EXPERTS: The case settled prior to the designation of expert witnesses.

CASE FACTS: Plaintiff is a 35 year old woman with a long history of an endocrine disorder involving the pituitary gland, leading to a condition called Diabetes Insipidus. This, in turn, was treated with hormone replacement in order to prevent abnormal sodium and fluid shifts (which could lead to a wide array of symptoms). In early May, 2008, plaintiff developed flu-like symptoms and her serum sodium levels dropped significantly, leading to increased weakness and malaise. She went to her local physician and a blood test revealed a serum sodium level of around 100 (normal = 135 - 145), which was a potential medical emergency since it could lead to seizures, coma

and/or death. Her physician, however, sent her home. A few days later, she returned to the doctor's office where the extremely low sodium level was confirmed and she was admitted to a local hospital.

Correcting a low serum sodium is not difficult. But one of the well-known risks of a chronically low serum sodium level is that the health care providers will correct the problem too quickly. When that occurs, rapid shifts of electrolytes and other solutes in the brain can cause damage to cells, which can be permanent (so-called "osmotic demyelination" or "central pontine demyelination" or "CPM"). This can lead to devastating consequences, including coma and catastrophic motor deficits ("locked-in syndrome"). Therefore, it is critical for the physicians and nurses to work together to make sure that the electrolyte imbalance is corrected, but not too quickly. In general, the serum sodium levels should not be brought back into the normal range at a rate of more than 8 - 10 units per day.

Defendants, although claiming to be aware of the risk of brain damage due to too-rapid correction of low serum sodium, proceeded to correct plaintiff's serum sodium at a rate of approximately 24 units per day – nearly three times the safe rate. Moreover, they allowed the serum sodium levels to 'overshoot' (i.e., entering the elevated range), which exacerbated the fluid shifts in the brain and caused even further damage. By the time the physicians consulted an endocrinologist who took over the case and handled the electrolyte disorder properly, plaintiff was in a coma. It took many months to awaken from the coma, and she is left with severe brain damage. While her awareness and other cognitive functions have recovered considerably, she has not recovered normal sensory or motor function. She cannot move properly, cannot walk or speak normally, and is incontinent. She requires round-the-clock nursing and attendant care, as well as intensive and on-going physical, occupational and speech therapy.

Plaintiff Contentions: Defendants failed to react in a timely manner to the initial sodium level, which was extremely low. Instead of admitting her immediately to the hospital, they sent her home. Once she returned a few days later, they recognized the very low sodium, but then took steps to correct it much too rapidly. As a result, extreme shifts of water, electrolytes and solutes took place in plaintiff's brain, leading to severe brain damage.

Defendant Contentions: The main thrust of the defense was an attempt by the physicians to shift responsibility onto the hospital nurses for failing to keep them apprised of changes in the serum sodium and other parameters of fluid balance, while the hospital claimed that it was the physicians' responsibility to stay informed of their patient's laboratory tests and fluid balance.

FINANCIAL INFORMATION: Since this was a medical malpractice case, under MICRA non-economic damages were severely limited. The bulk of the settlement reflected compensation for economic damages, primarily the need for ongoing medical, nursing, attendant and rehabilitative care. Annuities were purchased to provide for much of this care, and the remainder of the settlement funds were paid in cash.

Total Settlement: **\$ 20,000,000** (Approximate payout over a normal life-expectancy)

\$ 6,500,000 (present cash value)

Submitted by: Russell S. Kussman, M.D., J.D.

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