

## LEGAL CASE

**Medical and Nursing Malpractice: Male, 42: chemotherapy for testicular cancer: failure to diagnose and treat embolism: subsequent pulmonary embolism and stroke: speech aphasia: dense right hemiplegia: mostly in a wheelchair: defense verdict**

### author

P.A. Lanius, Esq.

### source

William S. Sander, Jr. et al. v  
Carolyn Collins, MD et al.

### case no.

154790,  
Shasta Superior Court,  
California

### Synopsis of Facts

Plaintiff, male, 42, had chemotherapy treatment for recurrent testicular cancer. He was prescribed antibiotics for puffiness around the eyes with sinus drainage including blood but they made him nauseous. He had swelling in the right neck but defendant Dr. Collins, medical oncologist, who observed puffiness in the area, doubted it was a deep venous thrombosis. A Doppler ultrasound of the upper extremity venous system confirmed there was no thrombus. The chemotherapy was continued with the normal complication of fatigue. Two days later he collapsed on his boat while fishing on Lake Shasta. He was diagnosed with a pulmonary embolism, a stroke in the distribution of the right middle cerebral artery, a genetic coagulopathy (Factor V Leiden heterozygous mutagen, a patent foramen ovale hole in the heart between the right and left atria, and significant clotting in the subclavian and internal jugular veins.

### Attorney for Plaintiff/s

Frederick W. Stephenson, Esq., Law Offices of Frederick W. Stephenson, 7420 Greenhaven Drive, Suite 100, Sacramento, CA 95831, phone (916) 424-8640, fax (916) 424-3309

### Attorney for Defendant/s

Patrick A. Lanius, Esq., Lanius & Associates, 995 Governor Drive, Suite 102, El Dorado Hills, CA 95762, phone (916) 939-4100, fax (916) 939-7305

### Date of Trial

November 30, 2006

### Judge

Judge Jack Halpin

### Experts for Plaintiff/s

Michael Van Scoy-Mosher, MD, 8631 W. Third Street, Suite 600-E, Los Angeles, CA; David Plotkin, MD, medical oncologist, 14642 Newport Avenue, Suite 300, Tustin, CA; Lynn D. Phillips, RN, 7 Walnut Park Drive, Chico, CA 95928; Jean P. Chambers, RN, 914 Beach Street #80, Foster City, CA 94404, phone (650) 571-6290; Gary Nibblelink, vocational rehabilitation counselor, life care planner, 3319 Folsom Boulevard, Sacramento, CA 95816; Albert Gutowsky, PhD, economist, 5700 Shepard Avenue, Sacramento, CA 95819

### Experts for Defendant/s

Judith Luce, MD, Hematology/Oncology Division, Building 80 Ward 84, San Francisco General Hospital, 1001 Potrero Avenue, San Francisco, CA 94110, phone (415) 476-4082; Nadine Nakazawa, RN, BS, OCN, PICC program coordinator, Stanford University Hospitals & Clinics, Stanford University Medical Center, 300 Pasteur Drive, Room HG021, Stanford, CA 94305; Mark Cohen, Pacific Economic Consultants, Inc., 3732 Mt. Diablo Boulevard, Suite 372, Lafayette, CA 94549, phone (925) 299-1200, fax (925) 299-1490;

October 26, 2012

Andrew Michael O'Brien, MS, CRC, 2609 Capitol Avenue, Suite 5, Sacramento, CA 95816, phone (916) 444-5933, fax (916) 444-5931; Robert Shavelle, PhD, Life Expectancy Project, 1439 17th Avenue, San Francisco, CA 94122-3402, phone (415) 731-0240, fax (415) 731-0290

### **Plaintiff Contentions**

Dr. Collins should have diagnosed the embolism before plaintiff collapsed. His neck swelled a lot six days before he collapsed. Dr. Collins should have instructed the chemotherapy nurses to watch plaintiff's neck where there had been puffiness and to report to her. The nurses should have performed physical assessments, including the neck area.

### **Defendant Contentions**

There was no complaint about the swelling six days before he collapsed. The standard of care did not require Dr. Collins to issue special instructions to the nurses. The nurses performed physical assessments and asked the plaintiff how he was. He had no trouble fishing and had no abnormalities at that time.

### **Damages Claimed**

Speech deficits (aphasia), dense right hemiplegia, pain and suffering, mostly in a wheelchair, 24-hour live-in assistance required

### **Special Damages**

Future medical expenses: \$6,997,000; past and future loss of earnings: \$1,489,000

### **Settlement Discussions**

Plaintiff: \$2,300,000; Defendant \$150,000

### **Jury Poll**

12-0: for the Defense

### **Trial Time**

12 days; Jury out: 1 ¾ hours

### **Notes**

Dr. Steven Hofkin, interventional radiologist, was dismissed before trial for a waiver of costs.