

VERDICTS & SETTLEMENTS

Texas jury awards \$737,000 in medical malpractice case

CASE TYPE: *negligence; medical malpractice*

CASE: Smith v. Agrawal, No. 1999-1797-J (Dist. Ct., Dallas Co., Texas)

PLAINTIFF'S ATTORNEY: William E. Zook of Mesquite, Texas' Ted B. Lyon & Associates

DEFENSE ATTORNEYS: Stanley A. Thiebaud and Paula S. Shiroma-Bender of Dallas' Stinnett Thiebaud & Remington

JURY VERDICT: \$737,000

THE ESTATE AND family of Cledith Smith Sr. have won a negligence verdict in the death of the security guard from complications following heart surgery.

On June 26, 1998, the decedent suffered chest pains and was admitted to Baylor Hospital. Kanti Agrawal, the cardiologist assigned to him, diagnosed an acute heart attack. He stabilized and monitored the patient and then ordered a catheterization.

After reading the catheterization films, Dr. Agrawal scheduled a single-vessel angioplasty. During surgery, however, complications ensued, and Mr. Smith was declared brain dead. He was taken off life support and died.

The plaintiffs, bolstered by expert cardiologist Frank Pallares, alleged negligent misreading of the films, claiming that the films showed two blockages, not one. A bypass, not an angioplasty, should have been performed.

Dr. Agrawal's attorneys disputed this, asserting that the appearance of dual blockages was actually an illusion caused by overlapping vessels.

They characterized Mr. Smith's surgical complications as a well-known, and sometimes fatal, consequence of angioplasty.

Dr. Pallares was accused of ignoring medical literature that supported the defense and also of failing to back up his own statements. The plaintiffs, however,

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said that his opinions were based on extensive, hands-on experience and also reflected advances made in cardiology.

Mr. Smith's estate sought damages for conscious pain and suffering and demanded reimbursement of medical, funeral and burial expenses.

His wife and son also asked for damages for mental anguish. Rather than requesting a specific amount, plaintiffs' counsel asked the jury to consider that Mark McGwire's 70th home run ball was worth \$3 million and a portrait of George Washington recently sold for 10 times that amount.

After more than 5 1/2 days, the jurors returned a \$737,000 plaintiffs' verdict.

The parties had entered into a high-low agreement, in which the defendant would be liable for no more than \$1 million and no less than the plaintiffs' costs up to \$25,000, and neither would appeal. There were no pretrial settlement negotiations.

After the verdict, it was agreed that the plaintiffs would receive the full amount rendered, but no judgment would be entered.