

Harrison James Dunnett, by and through his successors in interest and Parents, Gail Dunnett And Warwick James Dunnett; Gail Dunnett, Individually; and Warwick James Dunnett, Individually v. Casa Bella Recovery International, Inc., aka Lomonaco Palms Recovery International, Inc., a California Corporation; Steven Lomonaco, individually; Patricia Otsuji, individually; William T. Moisan, Individually; Donnetta Latrice Wilburn, Individually; Carlos X. Montano, M.D., individually, Lynda Totah, individually; Elijah's House Tx Corp, Inc., aka Elijah's House Treatment Center, a California Corporation; Sempre Famiglia, LLC., aka The Muse House, an Oklahoma Limited Liability Company; Thomas J. Cooper, Jr., M.D.; and Does 1 To 25, inclusive.

Orange County Superior Court

30-2017-00950244

TOPIC: Personal Injury

SUB TOPIC: Wrongful Death

FURTHER DESCRIPTION: Medical Malpractice

Verdict: Defense

JUDGE:

Hon. Harold E. Kahn

ATTORNEYS:

Plaintiffs: Mark Jay Krum
David W. Koller (Law Offices of David W. Koller)

Defendants: Stephen L. Hewitt (Hewitt & Truskowski)
Stacy L. Raphael (Hewitt & Truskowski)

FACTS: Plaintiffs, the wealthy vengeful parents of a charismatic 20 year-old aspiring rap musician, filed a wrongful death case alleging that he died from an overdose of medications in Casa Bella, an Orange County beachside residential detox home. Plaintiffs sued the home, the doctor and Lynda Totah, the nurse practitioner involved in the decedent's treatment. Nurse Totah specialized in detox medicine and was employed on a part-time basis by addiction medicine specialist Carlos Montano, M.D.

Plaintiffs alleged that their son's death was caused by the improper prescription of detox medications by the nurse practitioner, who was following the supervising doctor's pre-signed prescription for acute drug withdrawal. The medications combined multiple benzodiazepines and opioid medications, including Buprenorphine for heroin withdrawal. Plaintiffs contended that the Buprenorphine was unwarranted because decedent had not used opioids per pre-death lab testing; the nurse practitioner did not have the authority to prescribe that medication even with the physician's pre-signed authorization; and she failed to give decedent the required black box warnings, including possible respiratory depression and death if the drugs were misused.

The decedent was found lifeless and in early rigor mortis by a roommate in the early morning hours, two days after entering the detox facility with the nurse practitioner's prescribed drug regimen. The coroner determined the cause of death to be respiratory depression resulting from the combined effect of the benzodiazepine detox medications, Buprenorphine, and a therapeutic level of Valium which had not been prescribed by the nurse practitioner but was discovered in the post-mortem toxicology results. Plaintiffs contended that, had the decedent been given the warnings, he would have refused the Buprenorphine and not taken the Valium, which plaintiffs argued were the major contributing factors in causing respiratory depression.

Defendant nurse practitioner argued that the illicit Valium, albeit at a therapeutic level, caused a lethal respiratory depression when combined with the prescribed detox medications and that, even if the black box warnings had been given, it would not have deterred decedent from taking the illicit Valium. Defendant also argued that she met the standard of care in how she evaluated the decedent and determined he was in acute withdrawal from benzodiazepines and opioids, and it was proper for her to accept decedent's statements that he was using opioids (heroin) despite negative lab findings. Defendant Totah contended that the detox medications were appropriately prescribed, notwithstanding her lack of a license for Buprenorphine management. She relied on the detox home to administer the proper dosages and monitor decedent's respiratory status. Defendant argued that the decedent was the primary cause of his own demise, with comparative fault by defendants Casa Bella, and Dr. Montano.

Injuries/Damages: Unspecified non-economic damages for wrongful death, loss of care, comfort and society; \$25,000 in funeral and burial expenses. Plaintiffs were unsuccessful in arguing loss of decedent's future support.

RESULT: The jury returned a defense verdict in favor of Lynda Totah

LENGTH: 12 day jury trial

POLL: 10-2

DELIBERATION: 13.5 hours

SETTLEMENT DISCUSSIONS: At trial plaintiff withdrew all settlement demands. Last demand a few months before trial C.C.P. §998 offer of \$250,000. Defendants served a C.C.P. §998 for \$9,999.99.

INSURER: Liberty Mutual/Ironshore

TRIAL DETAILS: Prior to trial defendant Casa Bella entered into a large confidential settlement with plaintiffs not controlled by MICRA. Defendant addiction doctor Carlos Montano also settled with the plaintiffs for a MICRA controlled confidential sum. Montano admitted at trial that he pled guilty to felonies connected to his addiction medicine practice for unnecessary lab testing orders. During jury deliberations, the Orange County Register published a front page expose on addiction treatment at detox facilities which featured the pending case in its opening. A mistrial was not called after all jurors denied seeing the article.

PLAINTIFF'S EXPERTS

James P. Bagnell, M.D., F.A.C.E.P., Emergency Medicine/Addiction Specialist

Ijaz Siraj Jamall, Ph.D. , Toxicologist

Sunny Langley, Substance Abuse Treatment Specialist

DEFENSE EXPERTS

Frank Sheridan, M.D., Forensic pathology/neuropathology

Ian McIntyre, Ph.D., Forensic toxicology

Mary Maddock, PMHNP-BC, Psychiatric mental health nurse

POST-TRIAL: Defendants submitted a cost bill for \$86,174.93. Motion to Tax Costs pending.