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(AAA 42/1) MEDICAL MALPR.--FAILURE TO DIAGNOSE BLASTOMYCOSIS  
CAUSED CHILD'S DEATH (12F)

*Estate of Jacquieze Hogans, deceased minor v Dr. Navraj Grewal, Dr. Thomas Scaletta, Chicagoland Emergency Physicians S.C., West Suburban Hospital, Dr. Amado Rueda 04L-13574 Tried May 11-28, 2009*

Verdict: \$4,016,929 v Dr. Navraj Grewal (\$3,000,000 wrongful death; \$1,000,000 survival/conscious pain & suffering; \$14,626 medical expenses; \$2,303 funeral and burial expenses); Not Guilty v Dr. Thomas Scaletta and Chicagoland Emergency Physicians S.C.; West Suburban Hospital and Dr. Amado Rueda settled out prior to trial for \$1,390,000 (to be set off from verdict).

Judge: William J. Haddad (IL Cook-Law)

Pltf Atty(s): James G. Bonebrake, Matthew C. Friedman and Bruce W. Bernstein of Friedman & Bonebrake DEMAND: \$1,000,000 - \$2,000,000 high/low ASKED: \$7,016,929

Deft Atty(s): David C. Burtker and Sarah A. Rodak of Cunningham, Meyer & Vedrine for Grewal (ISMIS); Brian T. Henry and Thomas E. Daugherty of Pretzel & Stouffer for Scaletta, Chicagoland Emergency Physicians S.C. (Pro Assurance) OFFER: none

Pltf Medl: Dr. Mark Loafman (Family Practice), Dr. Phillip Jacobson (Pediatric Critical Care), Dr. Denise Goodman (Pediatric Critical Care) and Dr. Amado Rueda (Family Practice)

Deft Medl: Dr. Julio Rossi (Radiologist) for all defts

Pltf Expert(s): Dr. Bruce Silver (Radiologist), Dr. Richard M. Sobel (Emergency Medicine), Dr. Finley W. Brown, Jr. (Family Practice), Dr. Blaise Congeni (Pediatric Infectious Disease) and Dr. Eliezer Nussbaum of Miller Children's Hospital, 2801 Atlantic Ave., Long Beach, CA (562-933-8749) (Pediatric Pulmonology)

Deft Expert(s): Dr. Thomas Grant (Radiologist) for Grewal; Dr. John Ortinau (Emergency Medicine) for Scaletta

Dec. 26, 2002, 9-year-old Jacquieze Hogans was brought to the emergency room at West Suburban Hospital for complaints of chest pain, vomiting with cough, loss of appetite, and diarrhea. Deft E/R physician Scaletta ordered a chest x-ray, which he preliminarily interpreted as showing infiltrates in the left lung consistent with pneumonia. Dr. Scaletta diagnosed

pneumonia and dehydration, had the child admitted into the hospital under the care of family practitioner Dr. Rueda, and prescribed azithromycin, an antibacterial antibiotic. Deft radiologist Dr. Grewal read the x-rays that same day and noted in his report that cystic or cavitory lesions were also present in the left lung, but he failed to call the E/R or Dr. Rueda to advise of the discrepancy between his reading of the film and the E/R doctor's preliminary reading and of the need to consider tuberculosis or fungal infection as potential causes (the final report was not available in paper form until after the child was discharged from the hospital). Dr. Rueda continued to treat Jacquieze with antibacterial antibiotics and did not order any consultations with pediatric pulmonology or infectious disease specialists to assist in working up the diagnosis through sputum cultures and/or bronchoscopy. The child was discharged on Dec. 28. Jacquieze returned to West Suburban on Feb. 3, 2003; he was transferred the next day to Rush University Medical Center, where he was finally correctly diagnosed as having blastomycosis, a fungal infection, and treated with amphotericin, an antifungal medication. However, by then the blastomycosis was so disseminated that it failed to respond to the medication and Jacquieze died of necrotizing blastomycosis pneumonia at Children's Memorial Hospital on Feb. 9, 2003 (\$14,626 medl., \$2,303 funeral/burial). The estate contended Dr. Scaletta failed to identify that the x-ray also showed obvious cavitory lesions or dead areas of the lung, Dr. Grewal was negligent for failing to contact either Dr. Scaletta or Dr. Rueda to report the significant discrepancy between interpretations in violation of E/R policy requiring radiologists to directly notify the E/R of clinically significant discrepancies between preliminary and final reports, and treatment would have been successful if the blastomycosis had been diagnosed and treated with amphotericin in Dec. 2002 before it spread outside the left lung. The defense argued Dr. Grewal and Dr. Scaletta complied with the standard of care, the child did not complain of or have a cough in the E/R, and Dr. Rueda was the sole proximate cause of the child's death because he failed to check the final radiology report through the hospital's automated telephone dictation system; Dr. Rueda also saw the child in his office on Jan. 6, 2003, without learning about the official radiology interpretation. Dr. Grewal's policy limit is \$2 million.