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## Surgical patient says hospital failed to give pathology report to her doctors. \$1.7 million before MICRA. Orange County.

### Summary

Back surgery patient says hospital's failure to notify her doctor of infection resulted in greater harm to her.

### The Case

**Case Name:** Christine Auble v. Chapman Medical Center  
**Court and Case Number:** : Orange County Superior Court / 30-2013-00658342-CU-MM-CJC  
**Date of Jury Verdict:** Friday, July 10, 2015  
**Date Action was Filed:** Sunday, June 23, 2013  
**Type of Action:** Medical Malpractice (/jury-verdicts/category/medical-malpractice-2/), Highlighted Verdicts (/)  
**Judge or Arbitrator(s):** Hon. Ronald L. Bauer  
**Plaintiffs:**  
 Christine Auble, 53, nursing teacher  
**Defendants:**  
 Chapman Medical Center  
**Type of Result:** Jury Verdict

### The Result

**Gross Verdict or Award:** \$1,795,761  
**Net Verdict or Award:** \$667,071 (After MICRA reduction of general damages)  
**Award as to each Defendant:**  
 100% against Chapman Medical Center  
**Contributory/Comparative Negligence:** None  
**Economic Damages:**  
 Past loss of earnings: \$26,137  
 Past medical expenses: \$6,200  
 Future loss of earnings: \$255,527  
 Future medical expenses: \$129,207  
**Non-Economic Damages:**  
 Past pain and suffering: \$283,680  
 Future pain and suffering: \$1,095,000  
**Trial or Arbitration Time:** 8 days  
**Jury Deliberation Time:** 8.75 hours  
**Jury Polls:** 11-1 negligence, 12-0 causation, 11-1 damages.  
**Post Trial Motions & Post-Verdict Settlements:** None yet.

### The Attorneys

**Attorney for the Plaintiff:**  
 Law Offices of John S. Hinman by John S. Hinman, Long Beach.  
 Ryan Law, A Professional Law Corporation by Andrew T. Ryan, Century City.  
**Attorney for the Defendant:**  
 Dummit Buchholz and Trapp by Steven E. Kushner and Cheryl P. Robertson, Los Angeles.

### The Experts

**Plaintiff's Medical Expert(s):**  
 David Talan, M.D., infectious diseases, Tarzana.  
 Parakrama Chandrasoma, M.D., pathology, Pasadena.  
 Fardad Mobin, M.D., neurosurgery, Beverly Hills.  
**Defendant's Medical Expert(s):**

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Irving Posalski, M.D., infectious diseases, Beverly Hills.

Edwin Amos, M.D., neurology, Santa Monica.

**Plaintiff's Technical Expert(s):**

Joanne Latham, vocational rehabilitation, Simi Valley.

**Defendant's Technical Expert(s):**

Steven Molina, vocational rehabilitation, Santa Ana.

## Facts and Background

**Facts and Background:**

Plaintiff had suffered radicular pain in her left leg for more than ten years and underwent a lumbar spine surgery at Chapman Medical Center. After the operation, plaintiff suffered a post-operative infection of her surgical wound and required two more surgeries in the next two months to address the infection.

During the last operation, a bone specimen from her spine was sent to the pathology department at Chapman Medical Center for analysis. The pathology report indicated that plaintiff had acute osteomyelitis, a very serious infection in her bone. However, Chapman Medical Center failed to communicate the report to the surgeons, in violation of its own policies and procedures. As a result, plaintiff's surgeons and infectious-disease specialists were unaware that plaintiff had infection in her bone and she was taken off of IV antibiotics prematurely and her infection was never eradicated. Three months later plaintiff suffered a devastating relapse of her infection and required an emergent neurosurgery on her spine to remove infection from around her spinal cord, major portions of two of her vertebrae, and throughout the muscles and soft tissues of her lower back.

**Plaintiff's Contentions:**

That Chapman Medical Center was negligent for failing to comply with its own policies and procedures regarding transmission of pathology reports to the operating surgeons. That plaintiff's treating infectious-disease specialists would have extended her IV antibiotics for at least three more weeks had they known she had bone infection and that had plaintiff's infection been appropriately treated, it would have been cured and she would never have suffered the relapse and all of the injuries that resulted from the extensive fourth operation.

Regarding damages, plaintiff claimed that her injuries included a worsening of her radicular pain in her left leg and that she suffered from significant axial lower back pain and muscle spasms due to the destruction of the structures of her lower back during the fourth surgery, all of which cause her substantial daily pain and suffering.

She further claimed that due to her worsening physical condition she was placed on disability leave from her position as a classroom nursing teacher in fall of 2014. Finally, she claimed that she will incur substantial medical expenses in the future.

**Defendant's Contentions:**

That the surgeons had access to the report had they chosen to utilize the electronic medical records system at Chapman Medical Center. That plaintiff's treating infectious-disease physicians would have done nothing differently if they had the pathology report and knew of a diagnosis of bone infection because they were treating her presumptively for bone infection anyways. Further, even had plaintiff's IV antibiotics been continued, her infection would not have been cured and she would have suffered the relapse and required the fourth surgery no matter what medical treatment was given at Chapman Medical Center.

Finally, regarding damages, Chapman Medical Center argued that plaintiff's back pain and leg pain was pre-existing and as a result of a vascular condition and not nerve related.

## Injuries and Other Damages

**Physical Injuries claimed by Plaintiff:**

Destruction of the structural integrity of the lumbar spine and surrounding soft tissues including full laminectomies at the L4 and L5 levels, removal of the spinous ligaments at those levels, and extensive debridement around the spinal cord, the bones, and muscles of the lower back.

As a result, plaintiff suffered progressive lumbar spine degeneration and resulting central spinal canal stenosis and neuroforaminal stenosis at both the L4-L5 and L5-S1 levels. She suffers from exacerbation of her radicular pain in her left and right legs which now prevents her from walking more than 100 feet without suffering from severe pain and having to rest on a four-wheeled walker. She also suffers from chronic axial back pain and if she is upright for more than 3 hours at a time, suffers from severe muscle spasms and requires use of pain medications.

As a result of the above injuries, plaintiff needs pain management with narcotic pain medications as well as physical therapy and monitoring of the degeneration of her spine with imaging studies by a neurosurgeon. She was also terminated from her career as a classroom nursing instructor for entry level vocational nursing and medical assistants. She has been placed on permanent disability leave and will suffer substantial loss of earnings and benefits.

## Special Damages

**Special Damages Claimed - Past Medical:** \$6,200 (after MICRA offsets)

**Special Damages Claimed - Future Medical:** \$129,207 (after MICRA offsets)

**Special Damages Claimed - Past Lost Earnings:** \$26,137 (after MICRA offsets)

**Special Damages Claimed - Future Lost Earnings:** \$255,527 (after MICRA offsets)

## Demands and Offers

**Plaintiff \$998 Demand:** \$50,000 in July 2014

**Plaintiff Final Demand before Trial:** Verbal \$100,000 demand the week before trial; then \$300,000 the morning of the first day of trial.

**Defendant Final Offer before Trial:** Verbal offer of \$25,000 a month before trial.

**Defendant Offer during Trial:** None.

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