

CASE INFORMATION SHEET
FLORIDA LEGAL PERIODICALS, INC.
P.O. Box 3370, Tallahassee, FL 32315-3730
(904) 224-6649/(800) 446-2998 * FAX (850) 222-6266

COUNTY AND COURT:

Orange County Circuit Court

NAME OF CASE:

PAMELA TORRENCE, individually, and as Personal Representative
of the Estate of GARY FRANK TORRENCE, deceased,

Plaintiffs,

v.

SOUTHWEST INTERNAL MEDICINE SPECIALISTS, APARNA HERNANDEZ, M.D.
and SARAH ARMY, PA-C,

Defendants

CASE DOCKET NO.: 06-CA-11146
DIV: 40

JUDGE: A. Thomas Mihok

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL:

Donald Farber, Esq.
Law Office of Donald J. Farber, APC
175 North Redwood Drive
Suite 130
San Rafael, CA 94903

Kevin O'Connor, Esq.
Foley & Mansfield, P.L.L.P.
4770 Biscayne Boulevard
Suite 1000
Miami, FL 33137-3232

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL:

Jennings L. Hurt III, Esq.
Vance R. Dawson, Esq.
Steven B. Burres, Esq.
Rissman, Barrett, Hurt, Donahue & McLain, P.A.
201 E. Pine Street
Suite 1500
Orlando, FL 32801

AGE/SEX/OCCUPATION OF DECEDENT:

The decedent, Gary Torrence, was a 52-year old white male employed as a General Manager with Embassy Suites in Washington, D. C.

FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:

Pamela Torrence is a 57-year old white female employed as a nurse and currently residing in Virginia.

Hunter Torrence is a 21-year old white male student who is Gary and Pamela Torrence's son.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

May 24, 2005 suicide.

CAUSE OF INJURY:

This was a wrongful death medical malpractice case involving Gary Torrence's suicide on May 24, 2005. Mr. Torrence had moved to Washington, D.C. on March 11, 2005 to pursue a new position with Embassy Suites, for which he had been employed for many years. By all accounts, Mr. Torrence's job was not going well, which caused him to become depressed.

Mr. Torrence was diagnosed as suffering major depressive disorder (MDD) on Friday, May 13, 2005 by Sarah Army, a physician's assistant at Southwest Internal Medicine Specialists (SIMS). After evaluating Mr. Torrence, Mr. Army's plan was to start him on Zoloft, an SSRI antidepressant, and Xanax.

Since Ms. Army did not have a license to prescribe medication as of May 13, 2005, she sought the approval of Dr. Robert Meyer, an internal medicine physician at SIMS. Dr. Hernandez, Ms. Army's

supervising physician and primary care physician for Mr. Torrence, was not at the SIMS' office on May 13, 2005. Dr. Meyer approved Ms. Army's treatment plan for Mr. Torrence and also wrote the Xanax prescription.

Dr. Hernandez returned to SIMS on May 16, 2005. At that time, Dr. Hernandez reviewed Ms. Army's May 13, 2005 office note and signed off on Ms. Army's treatment plan for Mr. Torrence.

Plaintiff's theory was that Zoloft made Gary Torrence "literally crazy out of his mind and psychotic" which was evidenced by his taking a walk in the woods 2 days later on Sunday, May 15, 2005 after taking just two 25 mg tablets of Zoloft. Gary Torrence's wife was alarmed when he had not returned after several hours and called the Orange County Sherriff. The deputy's report indicated Mrs. Torrence reported her husband to have been depressed due to his job. Upon his return from the woods, Mr. Torrence appeared normal according to his wife, his 14 year old son and the deputy.

Mr. Torrence returned to his Embassy Suites job in Washington, D.C. on May 17, 2005. Mr. Torrence continued to work at his job throughout the week and spoke to his wife every day. Mr. Torrence purchased a riffle on Saturday, May 21, 2005 and committed suicide 3 days later, on Tuesday, May 24, 2005, after writing 11 suicide notes to various family members.

Plaintiff's case consisted of multiple theories of liability. For instance, Plaintiff contended that Mr. Torrence did not have MDD on the date of his evaluation, May 13, 2005, but rather insomnia and that he only needed Ambien. Plaintiff initially contended that insomnia was the only reason Mr. Torrence saw Ms. Army on May 13, 2005 and that was the reason Ms. Army wrote "insomnia" on the bill.

Another of Plaintiff's theories was that because Ms. Army did not have a license to prescribe medication as of May 13, 2005, she was "illegally" dispensing Mr. Torrence Zoloft in violation of Florida law.

Plaintiff also contended that Ms. Army and Dr. Hernandez failed to warn Mr. Torrence and his wife about Zoloft's side-effects. Plaintiff based this theory on the FDA's March 24, 2004 advisory which stated that family members and caregivers should be involved in any treatment plan involving the use of antidepressants. The trial court allowed Plaintiff to use the

FDA advisory, the Physician's Desk Reference (PDR) and Pfizer's package insert regarding Zoloft as affirmative evidence.

Plaintiff argued that Dr. Hernandez and Ms. Army also failed to monitor Mr. Torrence after May 13, 2005. It was the Plaintiff's contention that, at the very least, a phone call should have been placed to Mr. Torrence on May 16, 2005 when Dr. Hernandez returned to the SIMS' office and reviewed Ms. Army's May 13, 2005 office note.

Defendants contended that Mrs. Torrence did not need to be warned as Mr. Torrence was a 52 year-old businessman who fully understood his diagnosis and treatment plan.

As of May 16, 2005, Ms. Army and Dr. Hernandez were unaware that Mr. Torrence had gone for a walk in the woods on May 15, 2005 or that Mrs. Torrence had reported her husband missing for many hours on that date. Mr. or Mrs. Torrence could have called SIMS on May 15 or 16, 2005 but neither called.

Stephen Clark, the gun shop owner, testified that Mr. Torrence was not acting out of the ordinary when he purchased his rifle on Saturday, May 21, 2005. The 11 suicide notes which Mr. Torrence had written prior to his death were organized, cogent, coherent and easy to understand. The notes were inconsistent with a "deranged" or "crazy" person.

The trial court entered a directed verdict on the licensure issue as Ms. Army's lack of a license could not have played a causative role in Mr. Torrence's suicide.

Mr. and Mrs. Torrence were also having marital problems and even saw a marital counselor in 2003.

NATURE OF INJURY:

Mr. Torrence had moved to Washington, D.C. to pursue a new position at the Embassy Suites. Mr. Torrence's job was not going well, which caused him to become depressed. In fact, he had presented to the George Washington Emergency Room on March 31, 2005 complaining of chest pain. It turned out that Mr. Torrence was not having a heart attack; rather, he was experiencing anxiety due to significant stress associated with his job.

Mr. Torrence had MDD on May 13, 2005. He was experiencing feelings of hopelessness, a depressed mood, fatigue, insomnia and weight-loss. Ms. Army advised Mr. Torrence to (1) continue to take his medication every day (2) call the SIMS' office if he experienced any side effects and (3) establish a physician-patient relationship upon his return to Washington, D.C. "ASAP." Mr. Torrence did not comply with any of Ms. Army's instructions.

PLAINTIFF'S EXPERT WITNESSES:

David Healy, M.D.
England
Psychiatrist

Dr. Healy was Plaintiff's psychiatric causation expert who testified that Zoloft causes suicidality in men of Mr. Torrence's age (52 years old). Dr. Healy also testified that even if Mr. Torrence had only taken one Zoloft pill, this was enough for the effects of suicidality to manifest in Mr. Torrence's brain.

Dr. Healy testified there was no other explanation for Mr. Torrence's suicide. Dr. Healy indicated that it was unimportant that Mr. Torrence was suffering from MDD or that he was having job issues and marital problems.

Peter Breggin, M.D.
Ithaca, New York
Psychiatrist

Dr. Breggin was Plaintiff's psychiatric standard of care expert. Dr. Breggin testified that everyone was negligent including Dr. Hernandez, Dr. Meyer, Dr. Galceran, Ms. Army, SIMS and Pfizer. Dr. Breggin indicated that it was insignificant that Mr. Torrence had MDD. He testified Ms. Army and Dr. Hernandez failed to properly monitor Mr. Torrence, and to warn Mr. and Mrs. Torrence.

Steven Fugaro, M.D.
San Francisco, California
Internal Medicine

Dr. Fugaro, an internal medicine doctor, testified on standard of care and causation. Dr. Fugaro indicated that Ms. Army's failed to properly warn Mr. Torrence regarding the Zoloft medication as well as failed to monitor Mr. Torrence. Also, Dr.

Fugaro indicated that it was "possible" but "not proven" that Zoloft causes suicide in adults of Mr. Torrence's age.

Keith Kefgen
Greater New York area
Hotel Expert - Damages

Mr. Kefgen testified that Mr. Torrence, throughout the remainder of his career, would have made about \$2,000,000 through his work at Embassy Suites. However, Mr. Kefgen admitted that in order to get to the \$2,000,000 total, one had to make 5 assumptions.

These assumptions were (1) that Mr. Torrence would have remained in the hotel industry, (2) that Mr. Torrence would have continued to perform well in his job, (3) Mr. Torrence would have applied for a Regional Vice-President position, (4) Mr. Torrence would have obtained the Regional Vice-President position and (5) that Mr. Torrence would have relocated his family for this new job.

David Ostrove
Los Angeles, California
Economist

Mr. Ostrove calculated the total present value of Mr. Torrence's past and future economic losses to be \$2,018,839. This amount included Mr. Torrence's funeral expenses, loss of earnings and future value of his Hilton stock.

DEFENDANT'S EXPERT WITNESSES:

Jeffrey Danziger, M.D.
Orlando, Florida
Psychiatrist

Dr. Danziger was Defendants' psychiatric standard of care expert. He indicated Ms. Army's diagnosis was correct as was her prescription for Zoloft and Xanax. Dr. Danziger indicated that there was no need for Dr. Hernandez to call Mr. Torrence after reviewing Mr. Torrence's chart on May 16, 2005.

Robert Granacher, M.D.
Lexington, Kentucky
Neuropsychiatrist

Dr. Granacher was defendants' neuropsychiatric causation expert. Dr. Granacher indicated that there was simply no scientific data to support Plaintiff's theory that Zoloft causes 52 year-old males to commit suicide. Dr. Granacher testified that no studies have ever been conducted to support the theory that Zoloft causes suicide in men of Mr. Torrence's age group.

Kevin Inwood, M.D.
West Palm Beach, FL
Internal Medicine

Dr. Inwood, an internal medicine physician, testified on standard of care and causation. Dr. Inwood testified that Dr. Hernandez and Ms. Army met the standard of care in their care and treatment of Mr. Torrence. Dr. Inwood also testified that Zoloft absolutely did not cause Mr. Torrence's suicide.

Dr. Inwood testified that 25 mg of Zoloft was the smallest dose Mr. Torrence could have been dispensed and that Mr. Torrence needed to continue to take his Zoloft medication until he reached a "steady state"; i.e., a state where Mr. Torrence had taken enough of the Zoloft medication for its intended effects to begin. This never occurred as Gary Torrence stopped taking the Zoloft 3 days before his suicide.

CHECK APPROPRIATE SPACE: X Verdict

DATE OF VERDICT:

May 11, 2012

VERDICT:

Defense verdict.

COMPARATIVE NEGLIGENCE:

N/A

JUDGMENT:

For Defendants, Southwest Internal Medicine Specialists, Aparna Hernandez, M.D. and Sarah Army, PA-C.

DATE OF JUDGMENT:

May 25, 2012.

DEFENDANT'S OFFER:

Zero.

PLAINTIFF'S DEMAND:

\$5,456,000

ATTORNEY'S COMMENTS:

Plaintiff did not file a motion for new trial.

Submitted Jennings L. Hurt III Date: May 25, 2012
By: Vance R. Dawson
Steven B. Burres

Firm: Rissman, Barrett, Hurt,
Donahue & McLain, P.A.

Address: 201 E. Pine Street
Suite 1500
P.O. Box 4940
Orlando, FL 32802-4940

Telephone: (407) 839-0120

Fax: (407) 841-9726

VRD/SBB/erp/doc:#2313