



VERDICTSEARCH

NEW YORK

KINGS COUNTY

MEDICAL MALPRACTICE

Negligent Treatment

Patient left hospital against medical advice, suffered stroke

VERDICT **Defense**

CASE Auranilda DiSalvo v. Daniel Charnoff, M.D.; Norman Sobol, M.D.; Kings Highway Hospital; Paul Wein, M.D.; and Paul Wein, M.D., F.A.C.C., P.C., No. 24885/95

COURT Kings Supreme

JUDGE Randolph M. Jackson

DATE 10/2/2003

PLAINTIFF

ATTORNEY(S) John S. Kanzler, Finz & Finz P.C., Jericho, NY

DEFENSE

ATTORNEY(S) **Kim A. Carnesi, Amabile & Erman P.C.**, Staten Island, NY (Kings Highway Hospital)
John C. Henninger, Geisler & Gabriele L.L.P., Garden City, NY (Daniel Charnoff)
Andrew S. Kaufman, Kaufman, Borgeest & Ryan, New York, NY (Norman Sobol)

FACTS & ALLEGATIONS On Feb. 11, 1993, plaintiff Auranilda DiSalvo, 42, a part-time receptionist, presented to the emergency room of Kings Highway Hospital with complaints of pain in the right side of her head, and numbness in her left hand and face. A CAT scan revealed evidence of an old infarct.

DiSalvo told the treating physician that she had a history of an irregular heartbeat, but she did not specify atrial fibrillation. Dr. Norman Sobol, a neurologist, admitted her for a workup, which was to include an MRI. The MRI had to be performed off-premises because the hospital did not have the capability to perform the test.

DiSalvo subsequently came under the treatment of Dr. Daniel Charnoff, an internist employed by Paul Wein F.A.C.C. P.C. Charnoff ordered a Holter monitor to evaluate DiSalvo's cardiac rhythm. After three days, the tests still were not done, and DiSalvo, who was feeling better, checked herself out of the hospital against medical advice. Five weeks later, she sustained a significant stroke, which resulted in mild hemiparesis.

DiSalvo sued Sobol, Charnoff, Kings Highway Hospital, Wein and Wein's business entity. She argued that her presentation and history should have been sufficient to start her on Coumadin, an anti-

coagulant. She further claimed that the defendants were negligent for not ensuring that the tests were performed in a timely fashion, and for not giving her sufficient reason to remain in the hospital.

The defendants argued that it is against accepted practice to start anti-coagulation medication without a definitive diagnosis of atrial fibrillation, and that DiSalvo deprived them of the opportunity to perform a complete workup when she signed out of the hospital. They also demonstrated that DiSalvo had signed out of medical facilities against medical advice on other occasions.

INJURIES/DAMAGES *hemiparesis; stroke*

DiSalvo, a mother of three who is separated from her husband, suffered a stroke five weeks after she left the hospital. She sustained permanent left-sided hemiparesis.

RESULT The claim against Wein was discontinued prior to the trial; the claim against the hospital was discontinued during the trial. DiSalvo and Sobol reached a \$125,000 settlement during the trial, and the jury subsequently rendered a liability verdict in favor of Charnoff.

DEMAND \$750,000
OFFER \$75,000 (Daniel Charnoff)

INSURER(S) Physicians' Reciprocal Insurers
 for Daniel Charnoff
 Medical Liability Mutual Insurance Co.
 for Norman Sobol

TRIAL DETAILS Trial Length: 3 weeks
 Jury Deliberations: 2 hours

PLAINTIFF

EXPERT(S) Steven L. Grenell, M.D., neurology, Bronx, NY

DEFENSE

EXPERT(S) George Brief, M.D., cardiology, New York, NY
 Steven Sparr, M.D., neurology, New York, NY

EDITOR'S NOTE The defense attorneys did not contribute to this report.

—Nancy Deluca