

# Daily Journal

FEBRUARY 20, 2019

## TOP VERDICTS OF 2018

The largest and most significant verdicts and appellate reversals in California in 2018

### TOP PLAINTIFFS' VERDICT BY DOLLAR

# Alvarez et al. v. Community Regional Medical Center et al.

CASE  
INFO

**Medical malpractice**  
**Fresno County**  
**Superior Court Judge**  
**Jeffrey Y. Hamilton**  
**\$68 million**

**Plaintiff's Lawyers:**

Ricardo Echeverria, Shernoff Bidart Echeverria LLP; **Steven A. Heimberg, Marsha E. Barr-Fernandez, Heimberg Barr LLP**; Jeffrey S. Mitchell, Mitchell Law Group

**Defense Lawyers:** James M. Goodman, Rebecca L. Cachia-Riedl, Hassard Bonnington LLP

A trial team including attorneys Ricardo Echeverria, Steven A. Heimberg, Marsha E. Barr-Fernandez and Jeffrey S. Mitchell, won a \$68,035,462 medical malpractice verdict in March 2018 for the family of a man whom jurors concluded fell into a coma because his doctor left the hospital.

Silvino Perez, a 71-year-old who had no history of heart issues according to court documents, started complaining of chest pains and shortness of breath in March 2012. He went to the emergency room at Community Regional Medical Center where, he was admitted for further testing according to court filings.

Doctors later determined Perez needed to have urgent open heart surgery to replace his aortic valve and to repair an ascending aortic aneurysm.

By all accounts, the surgery went well, but Shernoff Bidart Echeverria LLP name partner Ricardo Echeverria said he thought what happened next was “mindboggling.”

The lead cardiothoracic surgeon, Dr. Pervaiz Chaudhry, left the operating room, instructing his physician assistant, Bella Albakova, to close Perez's chest. He then left the hospital without ensuring a backup cardiothoracic surgeon would be present. Minutes later, Perez began to have bleeding complications and ultimately went into hypovolemic shock.

By the time Chaudhry returned to the hospital, he was quickly able to get Perez back on the bypass machine. He then performed further surgery to repair the perforation of the heart. While doctors were able to save Perez's life, he now remains in a near-vegetative state, according to court documents.

Noting that he rarely handles medical malpractice cases, Echeverria said — when Heimberg, Barr-Fernandez and Mitchell told him the facts of the case — he first thought, “Having a physician assistant close my chest doesn't seem right to me.

“She did a very good job closing the chest,” Echeverria said. “It's just that he had a compli-

cation of bleeding and the doctor wasn't there to back it up.”

The trial was divided into three phases. The defendants included Chaudhry and his medical group, Valley Cardiac Surgery Medical Group. The hospital entities, including Community Regional Medical Center, were initially defendants, but plaintiffs' attorneys settled with them on confidential terms the week before jury selection.

“Phase one was solely to decide, ‘Was [Chaudhry] negligent?’” Once the jury found the doctor negligent, “Phase two was pattern and practice evidence of other instances, as well as damages,” Echeverria said.

According to Echeverria, witnesses testified that Chaudhry had a history of disregarding patient safety by not staying to finish his surgeries and not being available for his patients afterward.

After phase two of the trial, the jury awarded just under \$56 million in compensatory damages. The jury then awarded \$12.3 million in punitive damages. *Alvarez et al. v. Community Regional Medical Center et al.*, 13CECG03906 (Fresno Super. Ct., filed Feb. 11, 2016).

This was an easy case for Echeverria to prove on causation, he said.

“This is what I told the jury: ‘If you're going to have a heart attack, the best place in the world to have it happen is in the operating room for open heart surgery, because, guess what, they've got a machine right there that will do the function of your heart and your lungs while they fix your heart,’” Echeverria continued.

“That's all they had to do,” Echeverria added. “He just had to be there, and if he was there within four or five minutes to get him on the machine, he wouldn't have suffered the brain injury that he did.”

After the jury verdict, Superior Court Judge Jeffrey Y. Hamilton had to decide whether to apply the Medical Injury Compensation Reform Act, or MICRA, which would have placed a \$250,000 cap on non-economic damages in the medical malpractice case.

“There was definitely a major dispute in the case as to whether or not MICRA would apply,” Echeverria said. “Our position was MICRA protects doctors who make honest mistakes. The jury found that this was not an ‘honest’ mistake but rather constituted malice, oppression and or fraud.”

But that issue settled before the judge could decide.

Chaudhry's defense attorney, James M. Goodman, said his client settled for \$4 million following the verdict.

Describing Echeverria as an accomplished trial lawyer, Goodman said his opposing counsel was very effective in the courtroom.

“[He] achieved an excellent result for his clients. ... I have nothing but the highest praise for him, even though I was at the losing end of that case,” Goodman said.

Noting Echeverria came into the case “somewhat late,” Goodman added, “I have to commend the other attorneys in that case for recognizing the need to bring in somebody of his level of skill. ... He is not only good at what he does, but he's ethical [and] straightforward.”

— Skylar Dubelko