

MAY 16 2011

ALAN CARLSON, Clerk of the Court

BY: S. HERRERA-WILSON, DEPUTY

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10 ALIREZA PANAHPOUR, D.D.S,

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF ORANGE**

13 **30-2011**

14 **00475354**

15 ALIREZA PANAHPOUR, D.D.S., an
16 individual;

17 Plaintiff,

18 v.

19 DAVID J. WILZIG, an individual, JILL
20 CRESAP, an individual; and DOES 1 through
21 50, inclusive,

22 Defendants.

CASE NO.

JUDGE KIRK H. NAKAMURA c-8

**PLAINTIFF'S COMPLAINT FOR
MALICIOUS PROSECUTION**

[JURY TRIAL DEMANDED]

23 PLAINTIFF ALIREZA PANAHPOUR, D.D.S. ("Plaintiff" and/or "Dr. Panahpour") hereby
24 alleges as follows:

25 **VENUE AND PARTIES**

26 1. PLAINTIFF ALIREZA PANAHPOUR, D.D.S. ("Plaintiff" and/or "Dr. Panahpour")
27 is and at all times relevant hereto was an individual residing in the County of Los Angeles, State of
28 California.

2. DEFENDANT DAVID J. WILZIG ("Wilzig" and/or "Defendant") is and at all times
relevant hereto was an individual residing in the County of Los Angeles, State of California.

3. DEFENDANT JILL CRESAP ("Cresap" and/or "Defendant") is and at all times

1 relevant hereto was an individual residing in the County of Los Angeles, State of California.

2 4. Plaintiff is unaware of the true names and capacities, whether individual, corporate,
3 associate or otherwise, of Defendants DOES 1 through 50 (hereinafter "Does"), inclusive, and
4 therefore sues said Does by such fictitious names. Plaintiff will seek leave of Court to amend this
5 Complaint to show the true names and capacities of such Does when the same has been ascertained.
6 Plaintiff is informed, believes, and thereupon alleges that each of the fictitiously named Defendants
7 are responsible to Plaintiff for the injuries suffered and alleged herein, and/or are subject to the
8 jurisdiction of the Court as a necessary party for the relief herein requested.

9 5. Plaintiff is informed, believes, and thereupon alleges that each Doe is now, and was
10 at all times mentioned herein, the agent, principal, partner, joint venturer, employee or alter ego of
11 the remaining Defendants, and that all of the acts and conduct alleged herein were performed within
12 the course and scope and in the furtherance of such agency, partnership, joint venture, employment
13 or alter ego relationship.

14 6. Venue is properly laid in this Court in that the cause of action arose in the
15 County of Orange.

16 **FACTUAL ALLEGATIONS**

17 **A. *Dr. Panahpour's Successful Dental Practice***

18 7. Dr. Panahpour is a highly successful dentist who promotes progressive ideas and
19 methods in dentistry, thus enriching and enlarging the confines of conventional dentistry. He did his
20 undergraduate studies at the University of California, Los Angeles, and obtained his degree of Doctor
21 of Dental Surgery at the nationally renowned University of the Pacific, Dugoni School of Dentistry.
22 After graduating with the degree in dental surgery, Dr. Panahpour started his dental practice in 1994.
23 In order to expand his integral approach to dentistry, Dr. Panahpour obtained further education at
24 the New York Academy of Medicine. Throughout his dental career, Dr. Panahpour has been
25 constantly enriching his education at highly distinguished schools such as University of Southern
26 California, San Francisco Academy for Advanced Dental Education, and New York University.

27 8. A pioneer in Systemic Dentistry, Dr. Panahpour specializes in state-of-the-art general
28 and esthetic dentistry. He uses an integrative approach to healing, which combines conventional and

1 natural methods. Dr. Panahpour has successfully practiced dentistry in the United States and abroad
2 for over 17 years. He is licensed to practice dentistry in the state of Washington and in California,
3 and maintains dental offices in Los Angeles and in Seattle. Dr. Panahpour's philosophy is to broaden
4 the narrow scope of dentistry to include such important considerations as how the patient's oral
5 health affects his or her immune system, digestive system, structural and energetic alignment and
6 general well-being.

7 9. Dr. Panahpour is a member of a variety of well-known and distinguished American
8 and international organizations such as the American Dental Association, California Dental
9 Association, Western Dental Society, the American Academy of Cosmetic Dentistry, International
10 Academy of Biological Dentistry and Medicine, International College of Acupuncture and Electro-
11 Therapeutics, and International Academy of Oral Medicine and Toxicology. He has been a frequent
12 lecturer at the events organized by the Cancer Control Society and Academy of Neurology, as well
13 as at numerous other symposia and conferences nationwide. Dr. Panahpour has also been actively
14 involved in outreach programs and mission work in West and South Africa.

15 10. Due to his innovative approach to dentistry, Dr. Panahpour has been invited to a
16 number of national television and radio shows to share his vision and approach with the population
17 at large. He has extensively discussed Systemic Dentistry on the national TV program *Joy In The*
18 *World*, and has been as an expert guest to *Good Morning Sacramento* and other nation wide TV
19 broadcasting programs. Since 2003, Dr. Panahpour has been a repeated guest on *The Aware Show*,
20 a talk radio program focusing on self development in all areas of life, for healing and achievement.
21 He also is one of the experts on Systemic Dentistry in the video series created by *Beyond Wisdom*.
22 In addition, Dr. Panahpour has written numerous articles addressing the issues of a holistic approach
23 to dentistry as well as the dangers posed by amalgams containing mercury.

24 **B. *Dr. Panahpour's Work at South Coast Medical Center for New***
25 ***Medicine, and Dental Treatment of Cresap***

26 11. In or about April 2007, Dr. Panahpour began working as a dentist at South Coast
27 Medical Center for New Medicine ("SCMCNM") in the County of Orange. SCMCNM is a
28 healthcare provider which in addition to traditional dental and medical practice also provides
alternative holistic medical practices.

1 12. Cresap joined SCMCNM on or about July 20, 2007 as Director of Administration.

2 13. While working at SCMCNM, Cresap decided to use Dr. Panahpour's dental services.
3 Cresap scheduled an appointment and saw Dr. Panahpour on or about August 14, 2007. Dr.
4 Panahpour examined Cresap and recommended certain dental procedures. After a thorough dental
5 examination and review of X-rays taken during the dental exam, Dr. Panahpour advised Cresap that
6 the crown on her tooth #3 had to be removed and replaced because the tooth #3 was decaying.
7 Similarly, Dr. Panahpour advised Cresap that X-rays indicated there was inflammation and apical
8 cyst on her tooth #14 and due to that condition, the tooth had to be removed.

9 14. Treating Cresap as a colleague, Dr. Panahpour offered his dental services to Cresap
10 free of charge.

11 **C. Cresap is Fired From SCMCNM for Acts of Dishonesty and Seeks a**
12 **Lawyer**

13 15. In or about April, 2008, Cresap was fired from SCMCNM for acts of dishonesty.

14 16. Enraged at her termination by SCMCNM, Cresap decided to sue SCMCNM, and
15 immediately began looking for a lawyer who would take her case on a contingency fee basis. Cresap
16 could not find a single attorney in Orange County or Long Beach (where she lived) who would take
17 her case.

18 17. The only lawyer that Cresap was able to find who would take her as a client was
19 David Wilzig, a solo practitioner in Century City.

20 **D. Wilzig Devises a Scheme to Extort Money From SCMCNM and Dr.**
21 **Panahpour Through Their Insurance Carriers**

22 18. After talking to Cresap, Wilzig started devising a scheme to go after SCMCNM.
23 Wilzig knew that because Cresap was fired for committing acts of dishonesty, he could not sue
24 SCMCNM on any employment law claims. Learning from Cresap that she had received dental
25 treatment from Dr. Panahpour at SCMCNM, Wilzig came up with a serial shakedown scheme of
26 SCMCNM and Dr. Panahpour.

27 19. Wilzig knew that all medical centers, such as SCMCNM, and virtually all doctors
28 have medical malpractice insurance coverage of millions of dollars. Wilzig was certain that he could
get blood money from SCMCNM's and Dr. Panahpour's insurance carriers merely by filing a lawsuit

1 no matter how spurious the allegations. Wilzig set forth to file a suit and make demands of the
2 carriers that were a fraction of the defense costs SCMCNM and Panahpour would have to pay. While
3 this method of extortion was not subtle, it was successful as SCMCNM made a nuisance settlement.

4 **E. *Wilzig's History of Fabrication of Frivolous Lawsuits***

5 20. Wilzig has a long history of suing dentists and extorting nuisance settlement money
6 from their malpractice insurance carriers. Utilizing a "cookie-cutter" template complaint for all his
7 clients, Wilzig demanded thousands of dollars to settle the lawsuits and quickly agreed to take a
8 \$9,999 from a doctor defendant.

9 21. Significantly, Wilzig has been fabricating non-existing allegations and adding
10 innocent dentists-defendants to the lawsuits even against the will of his own clients. One of Wilzig's
11 own clients, Barbel Nanjo, was so concerned by Wilzig's acts that she felt compelled to publicly
12 announce that she did not authorize Wilzig to either add defendants (including Dr. Panahpour) or
13 allege what Wilzig did in the complaint filed on behalf of Barbel Nanjo. In her statement, verified
14 by a notary public, Ms. Nanjo publicly declared that she neither requested nor authorized Wilzig to
15 file any lawsuit against Dr. Panahpour. Ms. Nanjo clearly stated that she never instructed Wilzig to
16 bring dental malpractice, medical malpractice, conspiracy to commit fraud and intentional
17 misrepresentation causes of action against Dr. Panahpour because she believed Dr. Panahpour did
18 not commit any of the acts alleged by Wilzig in the complaint filed on Ms. Nanjo's behalf. A true
19 and correct copy of Barbel Nanjo's statement is attached hereto as **Exhibit A**.

20 22. On or about November 12, 2008, Cresap, with Wilzig's assistance, filed a frivolous
21 lawsuit against Dr. Panahpour and SCMCNM alleging eight causes of action, including dental
22 malpractice, lack of informed consent, medical battery, sexual battery, intentional and negligent
23 misrepresentation. Through Wilzig, Cresap alleged that Dr. Panahpour performed dental services
24 that were not necessary (i.e. Dr. Panahpour removed amalgams containing mercury and replaced
25 them with composite fillings), that Dr. Panahpour was negligent when he extracted Cresap's tooth,
26 and that Dr. Panahpour injected her eyebrow, lip, both breasts (Cresap had scars from a breast
27 reduction done in 2000), abdomen, right knee, left foot, and lower back without her informed
28 consent.

1 F. *Wilzig's Chase for Dr. Panahpour's Patients and Other Tactics to*
2 *Pressure Dr. Panahpour to Settle Cresap's Absurd Lawsuit*

3 23. Wilzig then decided to go even further: With Cresap's assistance, Wilzig obtained
4 a list of Dr. Panahpour's patients, and went after each of them in an attempt to convince them to sue
5 Dr. Panahpour and SCMCNM. True and correct copies of statements made by Dr. Panahpour's
6 patients regarding Wilzig's solicitation are attached hereto as **Exhibit B**.

7 24. By contacting Dr. Panahpour's patients, Wilzig engaged in the unauthorized practice
8 of soliciting clients by calling Dr. Panahpour's patients, which was not only a violation of their
9 privacy rights, but also illegal practice in violation of *Rule 1-400(C) of California Rules of*
10 *Professional Conduct* which prohibits attorneys from soliciting business by contacting individuals
11 with whom the attorney does not have a prior relationship.

12 25. All of the above-described acts were designed to intimidate Dr. Panahpour to settle
13 Cresap's absurd lawsuit. Moreover, the allegations concocted by Cresap and Wilzig against Dr.
14 Panahpour were identical to those that Wilzig fabricated for Ms. Nanjo and for his numerous other
15 clients, and were devised with a sole purpose to shakedown money from Dr. Panahpour's and
16 SCMCNM's insurance carriers.

17 26. Cresap and Wilzig went as far in their scheme to pressure Dr. Panahpour to settle as
18 to disseminate the false claims made in the action regarding Dr. Panahpour on the Internet.

19 27. At this point, Dr. Panahpour became fed up with this continuous harassment by
20 Wilzig, and refused to capitulate to Wilzig's extortionist tactics. Dr. Panahpour instructed his
21 insurance carrier NOT to settle the Cresap case although he knew that SCMCNM gave in to Wilzig's
22 blackmailing and settled the case. Accordingly, the case went to trial.

23 G. *Cresap v. Panahpour Trial and Dr. Panahpour's Decisive Victory:*
24 *Unanimous, 12-0, Jury Verdict in Favor of Dr. Panahpour*

25 28. At trial, the expert witness Dr. Jay Grossman, plainly explained to the jury why the
26 accusations brought against Dr. Panahpour were absolutely unfounded. Dr. Grossman is a nationally
27 recognized expert in dentistry and as such maintains three licences: California, Nevada and the
28 Northeast. He obtained his dental education at New York University where he also did his residency.
After his residency, Dr. Grossman joined the U.S. Navy where he worked for 2 years gaining a

1 plethora of experience. Upon completing his duty as a Lieutenant in the Dental Corp in 1991, Dr.
2 Grossman opened his own practice in Brentwood, California. In addition to being recognized as a
3 dentist of national significance, Dr. Grossman has been acknowledged for his philanthropic work
4 as the founder and executive director of the non-profit Homeless But Not Toothless, through which
5 Dr. Grossman has helped thousands of homeless and poor people providing them with free dental
6 services for over 20 years. Dr. Grossman's activities have been covered by the national media, such
7 as *Time* and *People* magazines, and have been recognized through numerous awards.

8 29. While the jury was watching the videotape of Dr. Panahpour's dental work on
9 Cresap's tooth #14, Dr. Grossman described Dr. Panahpour's work as "a perfectly executed surgery"
10 stating "I can't even pick one thing out that I would tell [Dr. Panahpour] to do differently." Dr.
11 Grossman walked the jury through the videotape and the facts based on which he concluded that Dr.
12 Panahpour's work as related to Cresap was not only within the standard of care, but well above that
13 standard, and that Dr. Panahpour took extra steps, which he was not required to take under the proper
14 standard of care, to ensure the best possible result. Dr. Grossman stated "[t]he procedure that [Dr.
15 Panahpour] does here, truthfully, is above the standard of care. The fact that he took out pieces and
16 did a pathology report, you don't have to do that, not for a normal extraction, he did that. The fact
17 that he cleaned out the bone and put bone in it so it will heal quicker and fuller is also – you don't
18 have to do that. Those are extras. That's no kidding, the Cadillac procedure for an extraction and a
19 bony defect." A true and correct copy of the excerpts from Dr. Grossman's trial testimony is attached
20 hereto as **Exhibit C**.

21 30. With respect to Cresap's tooth #3, Dr. Grossman testified that what Dr. Panahpour
22 performed on that tooth, *i.e.* took out the existing crown to remove the decay on the tooth, was
23 absolutely within the standard of care. In fact, it would have been a breach of standard of care if Dr.
24 Panahpour did not do so.

25 31. Cresap's unfounded allegations also included assertions regarding lack of informed
26 consent. However, not only did Cresap consent to all dental services provided by Dr. Panahpour, but
27 she herself requested all of them. Moreover, as the Director of Administration at SCMCNM, she
28 was responsible for risk management, including ensuring that the proper protocol was in place for

1 obtaining informed consent from all patients. As such, Cresap was well informed about all matters
2 related to obtaining informed consent, and what it meant. She later conceded that she understood and
3 signed the informed consent form. Despite all of these facts, she disingenuously claimed that there
4 was lack of informed consent.

5 32. As to Cresap's ridiculous accusations of sexual battery, there were so many
6 discrepancies in her own testimony that it was apparent to the jury that she was falsifying facts. In
7 fact, post-trial polling of jurors showed that they believed that Cresap made up the facts to allege her
8 sexual battery claim. For instance, Cresap conceded that she consented to neural therapy. She
9 requested it on her own because she knew exactly what the therapy was about. She also was
10 conscious during all dental procedures, and never objected to any procedure performed by Dr.
11 Panahpour. Further, she never complained to anyone after Dr. Panahpour's dental treatment that she
12 had been allegedly sexually battered by Dr. Panahpour. The jurors could see all the discrepancies
13 between these facts. While Wilzig and Cresap knew that there was no viable sexual battery cause
14 of action against Dr. Panahpour, they still brought this cause of action to put pressure on Dr.
15 Panahpour and gain leverage over him to force him to settle by first threatening to damage Dr.
16 Panahpour's reputation as a dentist, and then forcing him to spend more money defending the type
17 of claims that cannot be disposed of.

18 33. The degree of absurdity of Cresap's and Wilzig's lawsuit is also indicated by the
19 amount that they demanded the jury to award to Cresap. Wilzig asked the jury for \$400,000.00 in
20 damages to be awarded to Cresap for her non-existent and frivolous claims.

21 34. Shortly after being presented with all evidence and testimony at trial, and after a very
22 short deliberation process, the jury returned a unanimous, 12-0, verdict in favor of Dr. Panahpour.
23 A true and correct copy of the verdict in the matter of *Cresap v. Panahpour*, Case No.30-2008-
24 00114601 is attached hereto as **Exhibit D**. Dr. Panahpour's decisive victory at trial on every single
25 claim demonstrated that Cresap's and Wilzig's entire case was frivolous.

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27 //

28 //

1 **FIRST CAUSE OF ACTION**

2 **MALICIOUS PROSECUTION**

3 **(AGAINST DEFENDANTS WILZIG AND CRESAP AND DOES 1-50)**

4 35. Plaintiff repeats, re-alleges, and incorporates herein by reference as though set forth
5 in full each and every allegation contained in Paragraphs 1 through 34, inclusive.

6 36. On or about November 12, 2008, Defendants Wilzig and Cresap wrongfully brought
7 a lawsuit against Dr. Panahpour, despite knowing that the lawsuit against Dr. Panahpour was totally
8 frivolous.

9 37. In or about May 2010, a jury trial was held in the lawsuit brought by Cresap against
10 Dr. Panahpour wherein the jury returned a unanimous verdict in favor of Dr. Panahpour.

11 38. No reasonable person in Defendants' circumstances would have believed
12 that there were reasonable grounds to bring the lawsuit against Dr. Panahpour.

13 39. Defendants acted primarily for a purpose other than succeeding on the merits of the
14 claims they made. Rather, their sole purpose was to tarnish Dr. Panahpour's reputation and harm his
15 health, cause him damages.

16 40. As a direct and proximate result of Defendants' conduct, Dr. Panahpour incurred
17 damages and irreparable harm.

18 41. Defendants conduct was a substantial factor in causing Dr. Panahpour's harm.

19 42. Defendants engaged in a premeditated scheme to tarnish and damage Dr.
20 Panahpour's reputation by filing a frivolous and unfounded lawsuit against him. Defendants'
21 premeditated conduct in bringing a frivolous and unfounded lawsuit against Dr. Panahpour was
22 willful, oppressive and fraudulent in that they knew that there were no facts to support their
23 allegations. As a result of these and other actions, Plaintiffs are entitled to an award of punitive
24 damages.

25 WHEREFORE Plaintiff Dr. Panahpour prays for judgment against Defendants as follows:

- 26 1. For general and compensatory damages, including prejudgment interest, in
27 accordance with proof at time of trial;
- 28 2. For punitive damages in accordance with proof at time of trial;

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3. For costs;
and

4. For such other and further relief as the Court may deem just and proper.

DATED: May __, 2011

FINK & STEINBERG

By:



Keith A. Fink
S. Keven Steinberg
Attorneys for Plaintiff
ALIREZA PANAHPOUR, D.D.S.

EXHIBIT A

Fwd: FYI

Page 1 of 1

From: apanadds@aol.com
To: melowary@b3law.com
Subject: Fwd: FYI
Date: Thu, Jan 14, 2010 4:29 pm

there u go

pana

-----Original Message-----

From: Renata Viner <renatav05@sbcglobal.net>
To: apanadds@aol.com
Sent: Thu, Jan 14, 2010 11:38 am
Subject: FYI

Hi Alireza,

Yesterday morning (1/13/10) I received a call at my work # from David Wilzig, he left a message with the office asst. not stating what the call was regarding, but that he needed to chat with me. I was not familiar with his name or the nature of his business, however I returned his call on Thursday morning (1/14/10) to inquire. Once connected to David Wilzig, he informed me that I did not know him, but he obtained my name via Dr. Alireza Panahpour, then google searched my name to locate me at my work office. He proceeded to inform me that he was an attorney for other parties involved in suing Dr. Panahpour. I informed him that I was not comfortable continuing the conversation and that contrary to him; I hold Dr. Panahpour in high regard and wish to end the call with no further discussion. Mr. Wilzig was polite and stated that he understood my position. Thus concluded the brief call.

best regards,
Renata

Steven Green
339 N. 7th Street
Grover Beach CA

To whom it may concern,

I was contacted by phone by David Wilzig who stated that he was an Attorney representing someone who was dissatisfied with the dental care that they had received from Dr. Pana. He asked me several questions about the care that I received from Dr. Pana.

He did not give me any details about the problem that his client(s) had. I was not able to give him any negative information about the care that I received since I was then and I am still very happy with the dental work that Dr. Pana performed.

I seem to recall that Mr. Wilzig told me that he found my phone number on the internet. I have this recollection because I have been working on the internet since 1995 and had always been very careful to prevent any personal information from being distributed on the internet. To this day I can find no personal information for me on the internet.

Sincerely,

~~Steven Green~~



EXHIBIT B

Barbara Nanjo
3201 College Place, Apt 162
Lemon Grove, CA 91945-1464

August 6, 2007

STATEMENT

I am making the following statement of my own free will, without coercion or undue influence. I wish to provide this statement to a list consisting of: Cavitat Medical Technologies, Inc, its owner Robert J. Jones, and the following dentists: Christopher Hussar, D.D.S., Wesley Shankland, II, D.D.S., Alireza Panahpour, D.D.S and Jerry Bouquot, D.D.S. I will refer to these six parties as "the listed parties." The listed parties are among the defendants named in a complaint that has been originally filed on my behalf (I am the plaintiff), in the Superior Court of the State of California For the County of Los Angeles. The California case No was SC 089051. It is my belief that case against Cavitat, Robert Jones, Hussar and Shankland has been withdrawn from the California Superior Court and refiled in a federal court in Nevada. The attorney representing me in these matters, and in drawing up the complaint, has been David J. Wilzig, of the Law Offices of David J. Wilzig.

I hereby state that I did not wish, and do not, wish to include the listed parties in my legal complaint and I did not, and do not, ask my attorney, David Wilzig, to name the listed parties in the complaints referenced above. I do not know Robert J. ("Bob") Jones and I have no complaint against Robert J. Jones or his company, Cavitat Medical Technologies, Inc. Further, I have no complaint against the listed dentists, namely Hussar, Shankland, Panahpour, and Bouquot.

I do not know why David Wilzig, as my attorney, added the listed parties to the complaint brought on my behalf; I do not know why he brought allegations of Dental Malpractice, Medical Malpractice, Conspiracy to Commit Fraud and Intentional Misrepresentation, since he was *not* instructed to do so by me and, in my view, they have *not* done the things that they were and are being charged with in the complaint. I have verbally indicated such to Mr. Wilzig but, so far, he has been unresponsive to my wishes on this matter. That is why I am hereby notifying the parties on the list, as well as attorney David Wilzig, and Leo Cashman, of the non-profit group DAMS. I have discussed these matters with Leo Cashman, who will assist me in reaching the listed parties and providing them this statement.

I need to be properly and accurately represented by my legal counsel in accordance with my wishes and intents and in accordance with my instructions.

Copies of this statement are being provided to: Wesley Shankland, III, DDS; Christopher Hussar, DDS; Alireza Panahpour, DDS, Jerry Bouquot, DDS; David Wilzig, JD; and to Leo Cashman, who is assisting me in contacting the other parties.

Barbel
Barbara Nanjo

State of California
County of San Diego

On AUG 7, 2007 (date), before me, Janet E. Greenwell, Notary Public (name and title "Notary Public"), personally appeared Barbel Nanjo (name(s) of signor(s)), personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) here- subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary (Seal)



EXHIBIT C

1 **SANTA ANA, CALIFORNIA - TUESDAY, MAY 11, 2010**

2 **MORNING SESSION**

3
4 (The following proceedings were had
5 in the presence of the jury.)

6 **THE COURT:** We're back on the record. Counsel and
7 clients are present. The jury is assembled.

8 We left off with the defense case, are there
9 any further witnesses or evidence from the defense.

10 **MR. LOWARY:** Yes, your Honor. Dr. Panahpour calls
11 Dr. Jay Grossman.

12 **THE CLERK:** Please stand right here and raise your
13 right hand to be sworn.

14 You do solemnly state that the testimony you
15 are about to give in the matter shall be the truth, the
16 whole truth, and nothing but the truth, so help you God.

17 **THE WITNESS:** I do. Good morning, your Honor.

18 **THE BAILIFF:** State your full name and spell it
19 for the record.

20 **THE WITNESS:** Jay Grossman, G-r-o-s-s-m-a-n. Jay.

21
22 **JAY GROSSMAN,**

23 called as a witness on behalf of the Defense, having been
24 first duly sworn, testified as follows:

25 /////

26 /////

1 sticks it into the bone and releases his hand, and you
2 could actually see the instrument sticking in soft bone.

3 Q. Is that good to stick in soft bone or bad?

4 A. Well, it's horrible if the bone is soft. It's
5 brilliant that he was able to diagnose this and treat.

6 (Video playing.)

7 A. So he's pushing on the bone. Hard as a rock on
8 the buccal. Look at that. He let go of the instrument.
9 It's stuck in the bone; it's that soft.

10 Q. It's like a dart in the dart board?

11 A. Dart board. Now, he's pulling out -- did you see
12 how soft that is. It's flaking off. So this is dead bone
13 or what we call necrotic bone.

14 Q. It's certainly within the standard of care,
15 Doctor, that while you're at or near an adjacent tooth, to
16 remove what you consider to be adverse pathology nearby?

17 A. Absolutely. It certainly made sense. There's
18 only one tooth separating these, so to do the procedure at
19 one time saves the patient from a second surgery.

20 Q. I apologize for the blood, but this is, in fact,
21 the procedure; true?

22 A. That is the procedure. In fact, there's very,
23 very little bleeding. He did a great job with controlling
24 the bleeding.

25 I actually had a concern about showing this to
26 the jury because, you know, people don't like to go to the

1 dentist to begin with, and now we're watching an oral
2 surgery procedure. You know, I live here, so obviously
3 it's -- you know, doesn't turn my stomach, so I certainly
4 hope that's not -- that doesn't sit with you wrongly.

5 But, again, this is a perfectly executed
6 surgery. Like I can't even pick one thing out that I
7 would tell him to do differently.

8 So now he's using what looks like a rongeur.
9 It's a specific instrument that actually pulls out pieces
10 of tooth.

11 Now, he's taking pieces out. He's putting it
12 into a container to actually have a pathology report done
13 on it.

14 Q. So he's still at 16; true?

15 A. Still at 16.

16 Q. What's he doing there?

17 A. He's either putting an antibiotic in or some sort
18 of bone to fill the hole.

19 By the way, a few other accolades, if I may.
20 First of all, I don't know Dr. Pana. I met him this
21 morning the first time. The procedure that he does here,
22 truthfully, is above the standard of care.

23 The fact that he took pieces out and did a
24 pathology report, you don't have to do that, not for a
25 normal extraction. He did that.

26 The fact that he cleaned out the bone and put

1 bone in it so it will heal quicker and fuller is also --
2 you don't have to do that. Those are extras.

3 That's, no kidding, the Cadillac procedure for
4 an extraction and a bony defect.

5 Q. I think we've now gotten to the portion, Doctor,
6 where the crown has been removed?

7 A. Correct.

8 Q. And then we're left with, what, three roots?

9 A. Three roots, correct.

10 Q. That's the way you want to do it; right?

11 A. That's a phenomenal way to do it. There are two
12 ways of extracting a tooth, if I may.

13 Q. If this were a cartoon, we certainly don't take a
14 pair of vice gripes and pull it out all at once?

15 A. That is one way of doing it.

16 Q. Not the right way?

17 A. I would prefer not to see that around a tooth that
18 has the sinus in between, because if you just yank it out,
19 you're going to almost definitely encroach into the sinus.

20 What I would rather do is cut the tooth, so
21 then when you look up at the tooth, all you will see are
22 the three roots and then gently tease out the three roots.

23 Q. I think it's coming up here on the tape, Doctor.
24 If you see a part where the tooth is falling apart, let me
25 know.

26 A. So now the crown is cut off, so it's right at the

1 level of the gum. So this instrument, this is an
2 elevator. And what it does is it literally elevates out
3 the tooth.

4 Q. Do you see that, Doctor?

5 A. Yeah. I was just going to say, do you see how
6 soft that tooth is? It's flaking apart. The tooth is
7 supposed to be solid. This tooth is falling apart down at
8 the root. That's how decayed it was.

9 Perfect extraction. You notice there was very
10 little shaking or mobility. It came right out. There's
11 going to be three of those because there are three roots
12 on a maxillary first molar.

13 Q. So one down, two to go?

14 A. Correct. It's a very conservative procedure. He
15 clearly took his time. I don't know how long this whole
16 procedure was start to finish, but, I mean, more than
17 ample time. He's clearly not rushed. He's taking his
18 time with it and the procedure is going perfectly.

19 Q. A conservative approach, Doctor?

20 A. Very conservative.

21 Q. Apicoectomy is absolutely not in the cards;
22 correct?

23 A. Absolutely not, not for this tooth.

24 Q. Patient looks comfortable?

25 A. Comfortable, relaxed.

26 Q. What's he doing now?

1 A. This is an instrument that's called a curette.
2 And a curette basically goes into the little hole where
3 the root tips were, and you pull out the cyst or any other
4 pathology, and you could see he's taking it -- he's
5 actually putting it into a jar, because he's going to send
6 that to the path lab and we have that pathology report
7 that agrees that it is a periapical cyst.

8 Q. Dr. Poidmore suggested that Dr. Panahpour was
9 scooping the sinus?

10 A. Okay. We're now at the level of the gum. The
11 roots are about this big with the sinus above it. I have
12 never seen the instrument that he's using go in more than
13 half to three-quarters of the way inside the root tip.

14 And if he was into the sinus, the patient
15 would be jumping out of the chair. She would be in
16 excruciating pain, and she's barely even budging. He did
17 not perforate the sinus at this procedure. There's no
18 way.

19 Q. You would expect she'd be jumping out of the
20 chair?

21 A. Absolutely.

22 Q. Flinching in pain?

23 A. Correct.

24 Q. So if Dr. Poidmore were to say, boom, right there,
25 boom, he's up in the sinus, you'd say?

26 A. Not even close.

EXHIBIT D

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
MAY 13 2010
ALAN CARLSON, Clerk of the Court
Alan Carlson
BY IN QUORAM

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

JILL CRESAP,) CASE NO.: 30-2008-00114601
Plaintiff,)
vs.) GENERAL VERDICT BY JURY
ALIREZA PANAHPOUR, D.D.S,)
Defendant.)

Select one of the following two options:

We find in favor of JILL CRESAP and against ALIREZA PANAHPOUR, D.D.S. and award damages to JILL CRESAP.

We find in favor of ALIREZA PANAHPOUR, D.D.S. and against JILL CRESAP.

If you find in favor of JILL CRESAP and against ALIREZA PANAHPOUR, D.D.S., what are JILL CRESAP'S damages?

- a. Past economic loss
- lost earnings..... \$ _____
- dental/medical expenses..... \$ _____
- Total Past Economic Damages: \$ _____

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b. Future economic loss
lost earnings..... \$ _____
dental/medical expenses..... \$ _____
Total Future Economic Damages: \$ _____

c. Past noneconomic loss, including
physical pain/mental suffering:..... \$ _____

d. Future noneconomic loss, including
physical pain/mental suffering:..... \$ _____

TOTAL \$ _____

DATE May 13, 2010

Frederick C. Michael
Foreperson

After the verdict has been completed, signed and dated by the foreperson, the foreperson is to deliver the verdict form to the bailiff.