

Chicago Daily Law Bulletin

Volume 151, No. 203

Monday, October 17, 2005

Amicus Curious

Lawyer's pitch for client proves persuasive

By BILL MYERS
Law Bulletin staff writer

Before he could negotiate his client's medical malpractice settlement, Eugene I. Pavalon had to negotiate her life support.

Pavalon, of Pavalon, Gifford, Laatsch & Marino, was representing Neveen Morkos, 30, an Egyptian immigrant who had slipped into a coma after an appendectomy went awry.

She was suffering from diffuse brain damage and needed round-the-clock care, the cost of which has not exceeded \$1 million, Pavalon said.

Having just moved to the United States a couple of months before the mishap, she had no money and no insurance, and didn't qualify for Medicaid, Pavalon said.

Pavalon had negotiated a lower daily fee at one rehabilitation center. But then Morkos developed an antibiotic-resistant infection and had to be transferred.

The best option was Brentwood Nursing & Rehabilitation Center in Burbank. But Brentwood doesn't accept public aid patients, Pavalon said.

The only other option was also the worst one, Pavalon said.

"They were going to send her back to Oak Forest Hospital — which is the last place that I wanted her to go," Pavalon said.

Oak Forest, a Cook County-run hospital, was the scene of the alleged malpractice that had created her dire condition in the first place.

The "most critical time" for a patient trying to recover from brain damage is the first 12-18 months, Pavalon said, making it imperative that Morkos get into Brentwood.

As Morkos was recovering from the infection in yet another hospital, Pavalon asked doctors to transfer her to Brentwood, whose staff didn't know that Morkos couldn't pay them.

"I just had to rely on my being able to



Paul McGrath

Chicago personal-injury lawyer Eugene I. Pavalon is seen with exhibits prepared to demonstrate the catastrophic effects of actions that, according to a lawsuit, constituted medical malpractice. But even before it was time to pursue the actual case, Pavalon succeeded in winning an important victory for his client.

negotiate with Brentwood," Pavalon said.

Pavalon had Morkos' family send Brentwood officials a letter promising to pay the center with the proceeds of Morkos' med-mal case.

And Pavalon sent his own note, saying that in his professional opinion, there would be enough money to pay Brentwood's bills, which were running about \$25,000 per month.

"I said, 'I can assure you that I believe this case, when it's resolved, will certainly result in sufficient funds to pay these bills,'" Pavalon said.

It took a few days, but Brentwood officials ultimately agreed.

"I think [Brentwood] had to check me out to see who I was," Pavalon said.

In the meantime, "I felt a great deal of pressure in bringing this case to trial within the shortest period of time," Pavalon said.

As it turned out, Pavalon was vindicated: Earlier this month, the Cook County Board approved a \$35 million settlement between Oak Forest and Morkos.

"Sometimes human beings surprise you — even health care facilities," Pavalon said.

It wasn't the only surprise Pavalon would be dealt in the case.

He said Morkos, who was supposed to have been in a persistent vegetative state, has since regained consciousness.

"She recognizes all her family. She

continued

doesn't have her voice back. But she knows everybody. She's able to write Arabic numbers and words. How far she's going to advance remains to be seen and it will only be seen if we can get an Arabic-speaking psychologist to test her," Pavalon said.

Morkos moved to the U.S. from Egypt in February 2004, Pavalon said.

A Coptic Christian, Morkos was the victim of discrimination in her native country, and she and her extended family have been moving to the U.S. in small groups for years, he said.

In May 2004, Morkos complained of pain in her side and went to Oak Forest.

Doctors there diagnosed appendicitis and moved her into surgery to remove

the appendix, Pavalon said.

During the surgery, the oxygen tube in her throat came out and doctors couldn't get it back in for almost 10 minutes, according to the malpractice claim.

She was left without cognitive function, Pavalon said.

While Morkos lay in a coma, her mother flew from Egypt to be at hand in a time of need, Pavalon said.

"The mother stayed with her literally 24/7. She would talk to her constantly, pray and so forth. Five weeks later, [Morkos] began to show ... real cognitive functioning," Pavalon said.

Having made such strides, Morkos was transferred from a hospital to a nursing home. But there she developed an

antibiotic-resistant infection.

"[Even] people who don't have her disability don't survive that," Pavalon said. "And she survived it."

Pavalon said that Morkos' endurance amazed him.

He had been warning her family for weeks not to get their hopes up.

"I'd tell them, 'Be realistic.' They wouldn't accept it. They said, 'You have to believe. You have to have faith,' " Pavalon said.

Pavalon added: "I believe in miracles, but I don't count on them."

Neveen Morkos, a disabled person, by Hany Morkos, guardian of her person v. County of Cook, No. 04 L 7331.