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## Student misses out on law school and Olympic dream due to botched gallstone surgery. \$7.6 million. Los Angeles County.

### Summary

Abdominal surgery for gallstones goes awry on college athlete intent on becoming a lawyer.

### The Case

**Case Name:** Licudine v. Cedars-Sinai Medical Center

**Court and Case Number:** : Los Angeles Superior Court / BC499153

**Date of Verdict or Judgment:** Wednesday, June 28, 2017

**Type of Action:** Medical Malpractice ([/jury-verdicts/category/medical-malpractice-2/](#)), [Highlighted Verdicts \(/\)](#)

**Judge or Arbitrator(s):** Hon. David Cunningham, III

**Plaintiffs:**

Dionne Licudine, 22, student.

**Defendants:**

Cedars-Sinai Medical Center

### The Result

**Gross Verdict or Award:** \$7,619,257

**Net Verdict or Award:** The verdict will probably be reduced pursuant to MICRA to \$5,594,357.

**Economic Damages:**

Past Economic Loss: \$4000 (11-1)(amount of plaintiff's request), Future Economic Loss \$5,340,357 (10-2)

**Non-Economic Damages:**

Past non-economic loss: \$196,600 (12-0) (amount of plaintiff's request).

Future non-economic loss: \$2,078,300 (10-2).

**Trial or Arbitration Time:** 6 days.

**Post Trial Motions & Post-Verdict Settlements:** Pending.

### The Attorneys

**Attorney for the Plaintiff:**

Law Offices of Howard A. Kapp by Howard A. Kapp, Los Angeles.

**Attorney for the Defendant:**

Moore McClennen by Raymond Moore. Glendale.

### The Experts

**Plaintiff's Medical Expert(s):**

Lawrence May, M.D., internal medicine, Encino.

**Defendant's Medical Expert(s):**

Thomas Hedge, M.D., rehabilitation medicine, Northridge.

Rudolph Bedford, M.D., gastroenterology, Santa Monica.

**Plaintiff's Technical Expert(s):**

Graham Sherr, Associate Dean of placement at Loyola Law School.

Enrique Vega, vocational rehabilitation and forensic economics, Los Angeles.

**Defendant's Technical Expert(s):**

Kyle McEntee, attorney and law school expert, North Carolina.

### Facts and Background

**Facts and Background:**

This was a damages-only retrial of *Licudine v. Cedars-Sinai Medical Center* (2016) 3 Cal.App.4th 881, 208 Cal.Rptr.3d 170.

The first trial in 2014 resulted in a total award of \$1,045,000 (\$30,000 in noneconomic damages and \$1,015,000 in economic losses.) The trial judge granted both sides' motions for new trial and denied the defense motion for judgment notwithstanding the verdict on economic losses. The defense appealed only the denial of its motion JNOV on economic losses, claiming that the economic losses were zero. The new trial orders were affirmed on appeal and a new trial ordered.

To recap liability, the plaintiff was a 22-year-old senior at USC from the San Francisco area who was the coxswain and team captain for the school's women's rowing team. She was on a full athletic scholarship. As is typical for coxswains, the plaintiff was very small, approximately 5 foot, 95 pounds. The USC coach testified at both trials that the plaintiff was nationally ranked and a candidate for the 2012 Olympics at the time of her injury. The injury occurred in early February 2012, approximately 4 months before her anticipated graduation and her hoped-for opportunity to get selected for the Olympic team. She was deferring application to law school in the hopes that she would go to the London Olympics in 2012.

The plaintiff developed cholecystitis (gallstones) and had a never-specified number of visits to the emergency room for gallbladder attacks where she reported sporadic 10/10 pain. Eventually, it was decided that she should undergo a laparoscopic cholecystectomy (laparoscopic removal of the gallbladder), which is universally considered to be a very safe procedure. The procedure took place at Cedars-Sinai, the main defendant. The malpractice event occurred in February 2012.

As a result of malpractice fully adjudicated during the first trial, the defendant resident surgeon causing an immediate life-threatening bleed and the necessity of conversion to an open laparotomy and emergency intervention by a vascular surgeon. In addition to the visual 8-inch vertical scar due to the conversion to an open procedure, plaintiff sustained significant and permanent abdominal adhesions. Plaintiff complains of 6/10 abdominal pain continuously with unpredictable spikes to 10/10 (which required the use of narcotic medication). Plaintiff claimed that her unpredictable "bad days" made her unable to commit to any job or educational process.

Plaintiff had been accepted to four law schools for the 2013 school year. She had accepted admission at Suffolk Law School in Boston due to its proximity to crew-rowing activities.

**Plaintiff's Contentions:**

Plaintiff claimed that she would not be able to work or attend law school due to her ongoing pain and disability associated with abdominal adhesions caused by the surgical malpractice. Plaintiff presented evidence of a loss of earning potential of \$2.5 million to \$7.6 million, depending on circumstances.

**Defendant's Contentions:**

Cedars asserted that plaintiff's problems were minor and possibly aggravated by mental stresses and that, with a bit of tweaking of her medication and perhaps some psychological assistance, she should be able to attend law school and work as an attorney thereafter.

Also, that her undergraduate GPA and LSAT scores placed her in the bottom 25<sup>th</sup> percentile of her entering class at a lower tiered law school and as such, it was highly speculative as to whether she would complete law school or pass the bar exam in California (the second most difficult in the USA) where she intended to practice, or even in Massachusetts.

Finally, that all of her claimed economic injuries were speculative.

## Demands and Offers

**Plaintiff \$998 Demand:** \$249,999 (served in June 2013 prior to the first trial; no subsequent demands in view of defense offers).

**Plaintiff Final Demand before Trial:** \$100,000 before first trial.

**Defendant Final Offer before Trial:** \$350,000 after first trial.

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