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## Hospital, doctors liable in \$40.6 M malpractice suit

### Kingwood Columbia denies fault; Baker found negligent

By RONDA MEUWISSEN  
Humble Editor

In an unprecedented jury decision, a Kingwood hospital and two of its doctors were found guilty of malice and ordered to pay millions to a local man following surgery which left him incapacitated.

A Harris County jury awarded Ricardo Romero, 42, of Atascocita, \$40.6 million when Kingwood Medical Center and orthopedic surgeon Dr. Merrimon W. Baker and anesthesiologist Dr. William Scott Huie were found negligent relating to a routine back operation two years ago.

The state district court jury found the hospital solely responsible for \$12 million in punitive damages and 40 percent liable for actual damages (\$28.6 million) to Romero. Baker was found 40 percent responsible and Huie 20 percent responsible.

However, officials at Kingwood Medical Center and Huie have denied any wrongdoing, saying many of the suit's allegations are untrue. The hospital plans to appeal.

Romero sought surgery in July 1998 for a herniated disk, considered to be a relatively minor back operation.

Problems began during surgery when Romero suffered uncontrolled blood loss and subse-

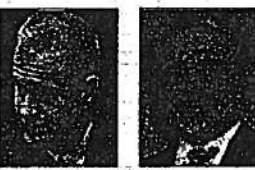
## HOSPITAL

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quently did nothing wrong and we did behind our history of providing quality care to the community."

Schuetz said Baker was already cooperating with the hospital when Kingwood M.S.O. pursued it in 1995.

"Technically, hospitals can't hire physicians," Schuetz explained. He said doctors are considered



Baker Schuetz  
quent cardiac arrest, leaving him permanently brain damaged and incapacitated.

A lengthy delay between blood transfusions contributed to Romero's condition.

According to Romero's attorney, Richard Warren Mithoff, testimony by Dr. Huie confirmed that it took over an hour for new blood to come from the hospital's own blood bank.

This case is believed to be a first in which a hospital is held liable for knowingly retaining an unqualified physician on its staff.

"They had been put on notice that Merrimon Baker had impaired medical judgment," Mithoff said.

Chuck Schuetz, the hospital's chief executive officer, disputes Mithoff's statement.

"Our deepest sympathies are with the Romero family," he said, "(but) we firmly believe that our

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independent surgeons who are granted privileges by the hospital.

Mithoff said Baker was known to have a drug addiction to Vicodin and Lortab, both brand names of a pain killer known to be potentially mood altering and with the ability to cause mental impairment.

He said hospital officials allowed him to submit unsupervised urine samples and continue operating on patients despite that problem.

Although it was not allowed as testimony in the Romero case,

Mithoff said he had two sworn statements confirming that Baker kept a jar of someone else's urine in a nearby refrigerator.

Additionally, Baker has been sued 11 times since 1988 — and as recently as 1998 — for medical malpractice or medical negligence, a fact Mithoff said Kingwood-Hospital should have known.

Schuetz said the hospital board of trustees must rely on the Texas Board of Examiners and "to this day they have found no wrongdoing by Baker."

Among Baker's previous charges were removal and replacement of the wrong hip in 1991, and unnecessary ankle surgery resulting in amputation in 1993.

Other suits included operation on the wrong leg, improper laminectomy (hardware removed by another doctor), improper diagnosis of damaged tendon, five improper treatments of orthopedic injuries, and leaving a sponge inside a patient.

Baker's attorney, Deanna Dean Smith, said because Baker settled prior to the trial, he would not be liable for any punitive damages.

She said Baker vehemently denies all allegations of drug use of prescription medicine, that he was falsely accused by ex-wives and girlfriends.

"There is no credible evidence at all of drug use at the time Baker cared for Mr. Romero or at anytime during his surgery."

She said both the plaintiff side and the defendant side in Romero's trial had opportunity to call Baker to testify but "they chose not to."

Smith said she could not comment on one pending case, however, all other prior malpractice allegations against Baker had been settled or dismissed. State board investigations found no credible evidence or finding of malpractice.

Mithoff said complaints had been filed against Baker with the State Board of Medical Examiners, but state officials took no action.

Schuetz responded that the only information about Baker available to the hospital was based on rumor.

"What we had heard was a rumor from the hospital north of us,"

he said.

"But a temporary restraining order from Montgomery County prevented Cleveland Regional and its physicians from reporting Baker's suspension to the State Board of Examiners, the National Practitioners Data Bank, or to any subsequent employees. This temporary restraining order was in place during Mr. Romero's surgery."

Schuetz confirmed that these references and others were checked before Baker was allowed to retain his privileges at Kingwood Medical. His references were clean.

"We checked every reference known to man (on Baker). There was nothing there."

According to law, plaintiffs suing a hospital must prove malicious intent with connection to the injury.

"Columbia-Kingwood Hospital placed this doctor on its staff and kept that doctor on its staff at a time when it knew the risk to patients," Mithoff said. "It was a totally preventable tragedy."

Schuetz said the hospital was unable to get any other information about Baker's prior malpractice claims, all of which occurred at other hospitals.

Mithoff calls Schuetz's comments "nonsense."

"Kingwood Hospital, like any other hospital, has the right through a peer review process to communicate with other peer review committees at any other hospital," he said.

Mithoff said a doctor applying for privileges is required to sign a waiver granting access to prior employment records.

He said Baker's former partner and office manager found opened drug samples in Baker's desk and reported his drug addiction to the state board.

Additionally, Mithoff said Kingwood Hospital refused to talk about the case in court, claiming confidential privileges, and would not reveal internal files.

Regarding Romero's blood loss and subsequent transfusion delay, Schuetz said testimony at the trial proved there was no delay.

"Our computer records showed that blood was typed and ready before Romero's surgery, he said. Time expired from "order to hang time" was ten minutes.

Whether it was ordered on time or not is a different matter."

According to Joseph Alexander, Huie's attorney, Dr. Huie was not the attending anesthesiologist assigned to Romero's surgery. He was called in to assist when problems arose.

"Mr. Romero would be dead if not for Dr. Huie," Alexander said.

He said Huie was the catalyst for reviving Romero "using drug and fluid resuscitation. He saved his life."

Schuetz also confirmed Huie's heroic actions, saying, "Huie is on staff here and at Northeast Medical Center Hospital. Everyone knows he is great."

The board of trustees, the medical staff and all the hospital employees will continue to do everything they can to provide a high quality care to the community and do everything we can to avoid similar outcomes," Schuetz said.

At the time of surgery, Baker was fully licensed to practice with no restrictions.

Others present during surgery

testified that Baker did not appear impaired.

In other states (Mississippi and South Carolina) where Baker has practiced, his license is in good standing.

Long after the surgery and during the trial, Baker's former wife and two former Columbia Hospital employees testified that Baker sought confidential counseling about his drug addiction in 1995.

In testimony prior to the trial, Baker admitted to forging two signatures on his application for a medical license, one of which was a doctor from South Carolina.

"This information was never disclosed to the hospital before the trial," Schuetz said. "And there was no other place to get that information."

Acting on the rumor, Schuetz asked Baker to submit to drug tests, which he took voluntarily for a year.

"He cooperated to prove himself clean," Schuetz said. "Nothing was found."

Dr. Ronald J. Kerr, who was chief of staff at the time of Romero's surgery, concurs with Schuetz.

"He operated for the most part out of the hospital in Cleveland," he said.

"In 1996 he was up for renewal.

We contacted the hospital there, the state board and the National Practitioner Data Bank. (Cleveland) sent back a clean letter, the date bank sent a clean letter. No incidents were filed.

"How is anyone supposed to know if the State Board of Medical Examiners doesn't even know?"

Kerr said Baker was eventually throwing off the staff for not completing his medical records.

"(The Romero trial) was a bad result. The attorney settled without ever putting Baker on the stand."

"The attorney decided to go for deep pockets. That's not protecting the community. There are no winners here, except for the lawyer. The hospital has been slandered, the public is certainly losing; the Romeros have suffered enough."

"Dr. Huie did his best. He was just walking by when someone was going into cardiac arrest. He revived Mr. Romero. He saved his life. He tried to do the right thing."

Contacted on Monday, Jill Wiggins, public information director for the Texas Board of Medical Examiners, said there is no public disciplinary action on file against Dr. Merrimon Baker.

He is currently practicing at Liberty-Dayton Hospital in Liberty.

Pam Gibbens and Cynthia Calvert contributed to this story.



The Ricardo Romero family poses for a family picture during happier times. Pictured from left to right are daughters Jennifer and Joann, Romero and his wife, Dolores. Standing in front of his parents is Ricardo Romero, Jr.