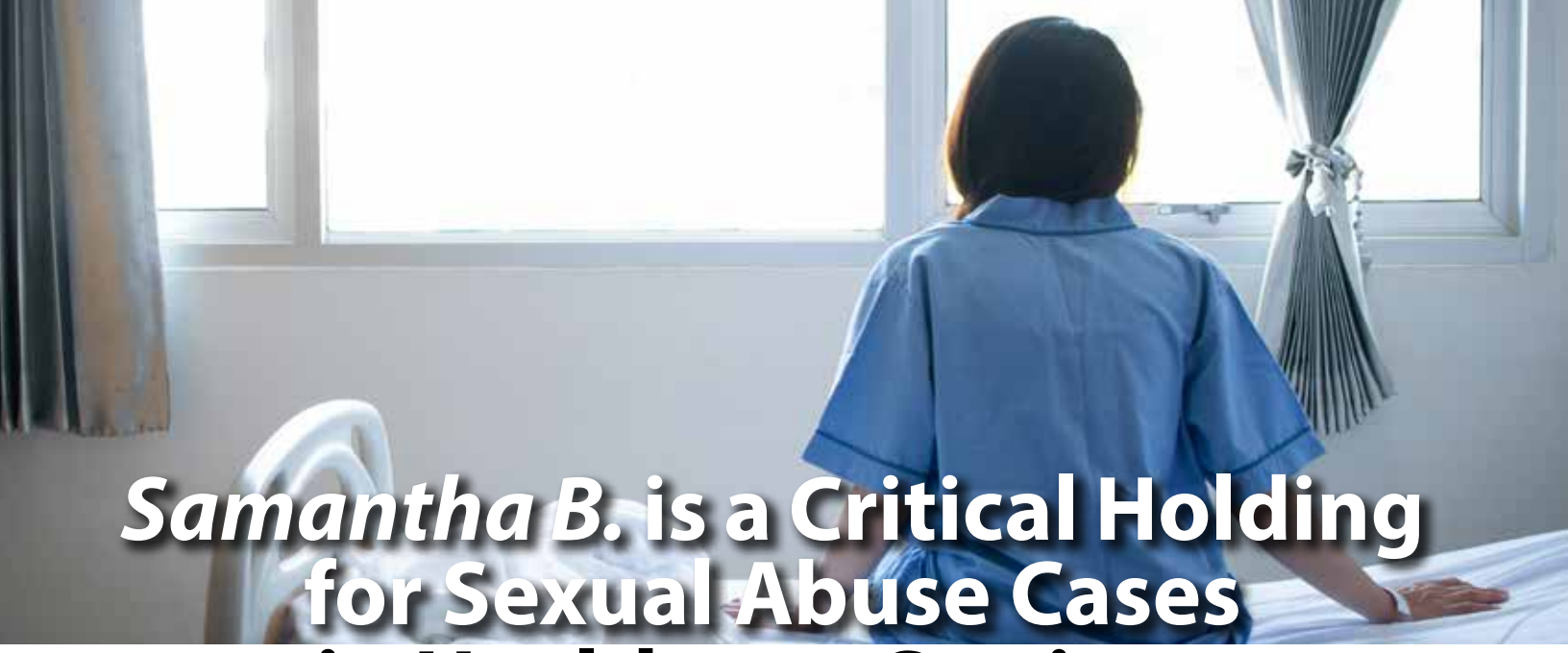

Samantha B. is a Critical Holding for Sexual Abuse Cases in Healthcare Settings

By **Benjamin T. Ikuta, Esq.** and **Sean O'Neill, Esq.**

Sexual assault and rape is medical malpractice…, at least according to renown defense appellate firm Horvitz & Levy in the defense of *Samantha B. v. Aurora Vista Del Mar, LLC* (2022) 77 Cal.App.5th 85, 91. In appellate briefing, Horvitz & Levy argued that the sexual misconduct of their client's employee Juan Valencia, also known as "Rapey Juan" to his coworkers, "necessarily constitutes professional negligence that would fall within MICRA."

Both the trial and appellate courts disagreed.

Samantha B. is one of the strongest and most important decisions to come out for the plaintiff's bar in recent history. It is a critical read for the plaintiff-side practitioner whenever a patient or a resident is sexually assaulted by an employee of a hospital, skilled nursing facility, or a residential care facility for the elderly.

It is a win for plaintiffs who have claims under the Elder Abuse and Dependent Adult Civil Protection Act. It is a win for plaintiffs who have been sexually assaulted by an employee of a corporation who buried its head in the sand. It is even a win for medical malpractice claimants.

Samantha B. has a handful of holdings, every single one of which favors the plaintiff. In addition to having the very experienced appellate counsel in Horvitz & Levy, established defense appellate firm Cole Pedroza also filed an amicus brief was filed on behalf of the powerful California Medical Association. Yet, the defense strategy of throwing so much crap against the wall and hoping some of it sticked to minimize exposure in a rape case really backfired.

The end result? A Ventura County jury verdict for three sexually abused women for over $10,000,000. Even though the corporate defendants were found 65% at fault with Valencia 35% at fault, when considering the seven-figure attorney fee award, the total recovery against the facilities totaled over $13,000,000. The repeated efforts of the defense to reduce the multi-million dollar verdict to $250,000 per MICRA fell completely flat.

The victims' attorney, David Feldman, did a remarkable job of working up this case and then preserving the verdict on appeal. He left no stone unturned in the search for the truth. We spoke to Mr. Feldman, who said this about the case: "The jury listened to my clients and they were believed. That is very empowering for the victims, for the survivors, that they were heard and believed. Dr. Soon Kim, a retired psychiatrist, owns Signature Healthcare Services, and he owns Aurora Vista Del Mar Hospital, and many other acute psychiatric hospitals in California and in the United States. Acute psychiatric hospitals are a critical resource for every community's wellbeing, they can be like a safety net for the most vulnerable people on their worst day. Staff at these hospitals are often skilled, driven by a sincere desire to help others. Staffing shortages negatively impacts the safety of both staff and patients. Maybe *Samantha B.* will help protect both the staff and their patients."

In awarding attorney fees to Mr. Feldman, the trial court remarked: "The file demonstrates that Mr. Feldman exhibited significant skill both in the trial court and at the appellate level. The outcome was exceptional for plaintiffs."

So What is Samantha B. About?

The facts of *Samantha B.* are horrific. As accurately described by the Court of Appeal, the corporate Defendants "operated the hospital recklessly and maliciously to make what happened almost inevitable. . . If the perpetrator had not been Valencia, it would have been someone else."

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Samantha B. involved Aurora Vista Del Mar, LLC, a psychiatric hospital, which is a licensed healthcare provider under Division 2 of the Health and Safety Code. The hospital was owned, controlled, and managed by a company called Signature. The hospital and Signature were both owned by Soon Kuyn Kim, M.D., who owns 11 similar hospitals nationwide.

In 2011, Aurora hired Juan Valencia as a "mental health worker." Despite its title, a mental health worker does not provide any care or treatment to patients. Rather, a mental health worker helped ensure that patients did not harm themselves or others. To be a mental health worker, no license, experience, education, or training is required. As another former Aurora employee testified: "one day they work at McDonalds, the next day they are mental health workers." Aurora gave Valencia only two days of orientation, which largely consisted of shadowing another unlicensed provider and only included about 5 minutes on inappropriate bonds between a worker and a patient.

In his application, Valencia lied and stated that he had never been arrested for a crime requiring registration as a sex offender. In fact, eleven years earlier, Valencia pled guilty to both rape with a foreign object and unlawful sexual intercourse with a minor. Aurora retained a consumer reporting agency to conduct a background search on Valencia, which only searches the past seven years for arrests or convictions. Had Aurora hired Certified Nursing Assistants instead of unlicensed mental health workers, it would have had notice of any such prior convictions.

The three plaintiff patients each suffered from psychosis and mental instability and did not have the mental capacity to consent to sex. Valencia engaged in sexual relations with all three while they were at Aurora. Patients had cognitive impairments similar to dementia. Some patients receive medication that render them temporarily unconscious. Sexual assaults of mental patients was a known and foreseeable risk.

Even before the sexual assault, Valencia was known among the workers as "Rapey Juan." A worker reported the nickname to the supervising nurse of the facility, who in response just rolled her eyes, shrugged, and said something along the lines of "What are we supposed to do?"

In 2004, only 7 years prior to hiring Valencia, a different male employee sexually molested a 17-year old patient. At that time, the director of clinical services requested that the CEO increase education to improve therapeutic boundaries. The CEO responded that "corporate", meaning Signature, would not pay for it. The same director also testified that there were other incidents in which a staff member interacted sexually with a patient. Despite this, nothing was changed.

In fact, it was Aurora's policy to allow male mental health workers to be alone with female patients in their room for up to 20 minutes as long as the door was open. However, the charge nurse spent most of the time at the nursing station. From the nursing station, a nurse cannot see inside a room. One must go into the room to see what is happening there. Given the configuration of the rooms, even walking up and down the hallway is not enough. The nurse relies on the mental health workers for information on the patients.

What's worse, the entire facility was woefully understaffed. Employees consistently complained to management and ownership that the units were understaffed to no avail. In fact, supervisors would even cross out the acuity numbers on patients, which would dictate the staffing needs for each patient, and lower them in order to lower the amount of staff needed. Psychiatric providers and nurses testified that the lower staffing had a dramatic impact on the quality of care to the patient as well as supervision of the mental health workers. When one licensed psychiatric technician complained about understaffing, she was told that the low level of staffing was how the hospital's CEO wanted it. She ended up quitting because of understaffing.

After one of Aurora's patients was discharged, a student nurse witnessed the discharged patient with Valencia at a party the following day and the two were being intimate with each other. The student nurse reported seeing the discharged patient with Valencia to Aurora. Aurora terminated Valencia. However, they did not interview Valencia, the hospital staff, or the former patient to see if any wrongdoing occurred while she was hospitalized. About a month after the termination, the CEO learned of the sexual misconduct. The CEO admitted that Aurora had a duty to report such an incident to the California Department of Public Health but did not do so for one year. Aurora only reported Valencia's misconduct after it became public knowledge.

The jury awarded $10,9750,000, finding the hospital and Signature 65% at fault and Valencia 35% at fault. After a finding of a relatively small amount of punitive damages as well as attorney fees and costs, the final judgment against the corporate defendants totaled $12,725,525.18.

***Samantha B.* Holding Number 1: MICRA and its Cap on Noneconomic Damages Do Not Apply to Dependent Adult Abuse Cases**

The very start of the opinion is clear: "Civil Code section 3333.2, known as the Medical Injury Compensation Reform Act of 1975 (MICRA), limits noneconomic damages to $250,000 based on professional negligence. Here we decide this limitation does not apply to plaintiffs' causes of action under the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA). (Welf. & Inst., § 15600 et seq.)."

Under section 15610.57(a)(1) of the Welfare and Institutions Code, "neglect" is defined as the "negligent failure of any person having the care or custody

of an elder . . . to exercise that degree of care that a reasonable person in a like position would exercise." Moreover, "[n] eglect includes, but is not limited to, all of the following: "(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter; (2) Failure to provide medical care for physical and mental health needs . . .; (3) Failure to protect from health and safety hazards; (4) Failure to prevent malnutrition or dehydration. (Welf. & Inst. Code, § 15610.57(b).)

Furthermore, a plaintiff must also allege that the defendant engaged in recklessness, fraud, malice, or oppression. (Welf. & Inst. Code, § 15657; *Delaney v. Baker* (1999) 20 Cal.4th 23, 37.) To establish recklessness, a plaintiff must show that the defendant acted with "deliberate disregard of the high degree of probability that an injury will occur." (*Ibid.*; see also CACI § 3113 [defining recklessness under the Act].) The plaintiff's burden to show such a high degree of wrongdoing must be by clear and convincing evidence rather than just a preponderance under section 15657.

Lastly, not only must a plaintiff show, at a minimum, reckless neglect by clear and convincing evidence, but the plaintiff must also show ratification against a corporate defendant. This requires the showing than an officer, director, or managing agent of Defendant either: (a) "had advance knowledge of the unfitness of the employee and employed him or her with a conscious disregard of the rights or safety of others," or (b) "authorized or ratified the wrongful conduct for which the damages are awarded," or (c) "was personally guilty of oppression, fraud, or malice." (Welf.

& Inst. Code, § 15657(c) *referencing* Civ. Code, § 3294(b).)

In essence, the burden is so high for a plaintiff that the California Supreme Court remarked that the "plaintiff must allege conduct essentially equivalent to conduct that would support recovery of punitive damages." (*Covenant Care, Inc. v. Superior Court* (2004) 32 Cal.4th 771, 789.)

Until *Samantha B.*, the defense in EADACPA actions consistently argued that reckless neglect required the *withholding* of basic care needs. (*Covenant Care, Inc., supra,* 32 Cal.4th at p. 783 ["[T]he statutory definition of "neglect" speaks not of the *undertaking* of medical services, but of the failure to *provide* medical care."].) Up until *Samantha B.*, cases that would support elder abuse claims were typically those where the elder was left unattended and unassisted for long periods of time. These cases would often involve unstageable pressure ulcers down to the bone or severe dehydration or malnutrition. (See, e.g., *Covenant Care, Inc., supra,* 32 Cal.4th at p. 783, *Delaney, supra,* 20 Cal. 4th 23 at p. 37; *Sababin v. Superior Court* (2006) 144 Cal.App.4th 81, 86.)

Defendants constantly argue that reckless neglect cannot be an acute event and instead must be a withholding of care over a long period of time. In doing so, the defense always relies heavily on the 4th District in *Carter v. Prime Healthcare Paradise Valley LLC* (2011) 198 Cal.App.4th 396, 409. In *Carter*, the elder's family filed suit against both a Skilled Nursing Facility and a Hospital. (*Id.* at p. 900.) At the Skilled Nursing Facility, the elder "developed pneumonia, pressure ulcers on his lower back and buttocks and sepsis." (*Ibid*.) Thereafter, in poor condition, the elder was transferred to the hospital. (*Ibid*.) After the elder passed away at the hospital after a short stay, the family sued the hospital for elder abuse, alleging that that the hospital failed to properly stock a crash cart, failed to give the

elder life-saving medications, and failed to properly treat his already-existing pressure ulcers. (*Ibid*.) There were also allegations of fraudulent documentation and record-keeping after the fact. (*Ibid.*)

Under these facts, the 4th District Court of Appeal held that, at most, the action was one for medical malpractice because "no facts are alleged as to any care or treatment the Hospital denied or withheld…" (*Id.* at p. 408.) Accordingly, *Carter* held that under those facts, there could not be a valid claim under EADACPA. (*Ibid.*)

Samantha B. criticized *Carter* and correctly explained that Welfare and Institutions Code section 15610.57(b)(3) included as an example of neglect the "[f]ailure to protect from health and safety hazards." *Samantha B.* explained that "to the extent Carter can be read as holding that neglect does not include the failure to protect from health and safety hazards, we decline to follow it as directly conflicting with section 15610.57, subdivision (b)(3)."

Samantha B. then explained that there was a failure to protect patients from health and safety hazards. Moreover, there was ample evidence to prove recklessness and ratification. As explained by the Court of Appeal: "Aurora and Signature were well aware that their female patients were particularly vulnerable to sexual predation by male mental health workers." (*Id.* at p. 335.) They operated in a way and adopted policies that exposed their patients to a high degree of risk to sexual predation. (*Ibid.*) Not only did they do incomplete, substandard background checks, they decided not to hire CNAs who would are trained, licensed, fingerprinted, and subjected to unlimited background checks. (*Ibid.*) The facility even had a prior sexual assault by a male employee and did absolutely nothing about remedying the problem because Signature was not willing to pay the extra money for precautions. (*Id.* at p. 336.)

As the Court of Appeal explained: "This is not a case of a momentary failure in an otherwise sufficient system. Valencia was allowed to prey upon three different women. It is reasonable to conclude that had Valencia not been improvident enough to be seen at a private party with a woman who had been discharged the day before, he

would have continued to work at Aurora and claim other victims." (*Ibid.*) Indeed, " [e]ven when Aurora was informed that Valencia was known as "Rapey Juan," the reaction was a shrug." Accordingly, the Court of Appeal found more than ample evidence to support a finding of recklessness under the clear and convincing standard." (*Ibid.*)

Accordingly, since Plaintiffs showed reckless neglect and not just mere negligence, the MICRA provisions did not apply. Accordingly, "Plaintiffs are not bound by the laws specifically applicable to professional negligence."

Lastly, in direct contradiction to the clear language of the statute, Defendants tried to argue that even if the case was truly one for Elder Abuse, that the limitations of Welfare and Institutions Code section 15657(b) limited Plaintiffs' recovery to $250,000 each. Section 15657(b) states: "The limitations imposed by Section 377.34 of the Code of Civil Procedure on the damages recoverable shall not apply. However, the damages recovered shall not exceed the damages permitted to be recovered pursuant to [MICRA's] subdivision (b) of Section 3333.2 of the Civil Code."

Code of Civil Procedure section 377.34 only applies to a dead plaintiff. Back when EADACPA was passed, noneconomic damages were not available on behalf of a decedent. As such, despite the limitation to the MICRA cap, the legislature history is clear that the purpose of Elder Abuse actions is to ***expand*** remedies in order to protect the elderly. (See Welf. & Inst. Code, § 15600; see also *Delaney, supra,* (1999) 20 Cal.4th at p. 33.) Indeed, allowing for the deceased elder's own pre-death pain and suffering by trumping § 377.34 expands the remedies in an Elder Abuse action that would not be previously available in other survivorship actions. As such, despite § 15657(b)'s reference to the MICRA cap, this is a measuring stick only.

Accordingly, consistent with the legislative purpose to expand (not contract) remedies, there was no limitation on the recovery of noneconomic damages for a *living* plaintiff in anaction under the EADACPA.

Samantha B. **Holding Number 2: The Facility is Potentially <u>Vicariously</u> Liable for the Conduct of Valencia**

Samantha B. is the ***only*** case since *Mary M. v. City of Los Angeles* (1991) 54 Cal.3d 202, 212 that has found the potential for vicarious liability against an employer based on the sexual assault of an employee. The decision is enormous for holding hospitals or skilled nursing facilities not just directly liable, but vicariously liable for the sexual misconduct of its employees.

In *Samantha B.*, despite the unequivocal big win at trial, after the defense filed their notice of appeal, Mr. Feldman made the decision to file a cross-appeal on the single issue that the plaintiffs lost at trial. The Court of Appeal ruled in the plaintiffs' favor on every single issue in the defendants' appeal. However, the Court of Appeal neglected to address Mr. Feldman's cross-appeal. Thus, Mr. Feldman filed a petition for rehearing, which was granted by the Court of Appeal. Thereafter, the Court of Appeal filed a modified opinion and *reversed* the trial court on the single issue that Defendants prevailed on at trial.

Even though this issue is buried at the bottom of the opinion given the rehearing issues, it may be the single most important holding of the entire case. At trial, the court granted Aurora's motion for nonsuit on the plaintiffs' causes of action alleging that Aurora was vicariously liable for Valencia's misconduct.

The trial court relied heavily on *Lisa M. v. Henry Mayo Newhall Memorial Hospital* (1995) 12 Cal.4th 291 in finding no vicarious liability. In *Lisa M.*, a pregnant 19-year old female patient presented to the emergency room after she fell. (*Id.* at p. 295.) A radiology technician performed an obstetrical ultrasound. (*Ibid.*) In doing so, the radiology technician then asked if the patient wanted to know the gender of her child. (*Ibid.*) After the patient replied yes, the radiology technician then fondled the patients vagina with his fingers, claiming he needed to "excite her to get a good view of the baby." (*Ibid.*) Later, the radiology technician testified that he thought the patient was getting pleasure from his molestation. (*Ibid.*)

In a 5-2 split, the California Supreme Court held that the hospital could not be vicariously liable for the sexual assault. In doing so, the Court explained that "[t]o hold medical care providers strictly liable for deliberate sexual assaults by every employee whose duties include examining or touching patients' otherwise private areas would be virtually to remove scope of employment as a limitation on providers' vicarious liability." (*Id.* at p. 302.)

In doing so, the majority explained that given the relatively brief interaction with the radiology technician, the assault "did not originate with, and was not a generally foreseeable consequence of, that contact. Nothing happened during the course of the prescribed examinations to provoke or encourage [the] improper touching of plaintiff." (*Id.* at p. 303.) The Court explained that "there is no evidence of emotional involvement, either mutual or unilateral, arising from the medical relationship. Although the procedure ordered involved physical contact, it was not of a type that would be expected to, or actually did, give rise to intense emotions on either side." (*Id.* at p. 302.)

The majority in *Lisa M.* found that the case of *Mary M. v. City of Los Angeles* (1991) 54 Cal.3d 202, 212 was distinguishable. In fact, until *Samantha B.*, *Mary M.* was the *only* published California case that found vicarious liability in the context of sexual misconduct.

In *Mary M.*, the City of Los Angeles was found liable by a jury when a police officer raped a motorist. (*Ibid.*) After the Court of Appeal reversed the jury verdict, the California Supreme Court

reversed the Court of Appeal, finding that the city could be held vicariously liable for the sexual assault. (*Id.* at p. 221.) In doing so, the California Supreme Court noted that police officers wield enormous power since they are given the authority to detain, arrest, and even use deadly force when necessary. (*Id.* at p. 206.) Given this "considerable power and authority that police officers possess," the California Supreme Court held that a jury could consider the sexual assault to arise from the misuse of official authority. (*Ibid.*)

Since *Mary M.* relied on the "extraordinary power and authority over its citizenry", California courts have time and again held that sexual misconduct falls outside of course and scope of employment as a matter of law. (See, e.g., *Maria D. v. Westec Residential Sec., Inc.* (2000) 85 Cal. App.4th 125, 140 [security company not vicariously liable for rape committed by security guard]; *Rita M. v. Roman Catholic Archbishop* (1986) 187 Cal. App.3d 1453, 1457 [Church not liable under respondent superior theory for priest who sexually molested a minor]; *M.P. v. City of Sacramento* (2009) 177 Cal.App.4th 121, 124 [in finding that a City couldn't be held liable for sexual assault by firefighters, noted that "[i] t is questionable whether the holding in *Mary M.* is still viable."]; *Z.V. v. County of Riverside* (2015) 238 Cal.App.4th 889, 893 [holding that the *Mary M.* holding is limited and "unique" in finding no liability against a county when a social worker molested a child.].)

Again, for the first time since Mary M., the Court of Appeal in *Samantha B.* held that "there is sufficient evidence for a jury to conclude Valencia was acting within the scope of his employment." (*Samantha B.*, *supra*, 77 Cal.App.5th at p. 343.) *Samantha B.* explained that the workers were personally involved with the patients over an extended period of time. (*Ibid.*) In addition, "[t]he patients are vulnerable; they may suffer from impaired judgment or other cognitive impairments." (*Id.*at p. 344.) Accordingly, sexual exploitation of the patients by employees was a foreseeable hazard arising out of the job. (*Ibid.*)

Samantha B. distinguished *Lisa M.*, noting that even *Lisa M.* included a comment that it was possible to have a physician or therapist who became sexually involved due to the "mishandling the feelings predictably created by the therapeutic relationship." (*Ibid.* [quoting *Lisa M., supra,* 12 Cal.4th at p. 303.]) Therefore, *Samantha B.* found that "[a]mple evidence supports a finding that Valencia was acting within the scope of his employment." (*Ibid.*) That was particularly true since Valencia's employment allowed and even fostered such misconduct to occur. (*Ibid.*)

Since the trial court granted the nonsuit in error, the Court of Appeal reversed and remanded for a new trial on the vicarious liability issue only. That case is still pending. Presumably, since Valencia was found 35% at fault for the approximately $10,000,000 verdict, there is the potential that the corporate Defendants would be additional liability for the approximately $3,500,000.

Nonetheless, the case is crucially important in rape cases in the healthcare setting. Sadly, sexual assault and rape of the elderly by low-level employees is prevalent in Skilled Nursing and Rehabilitation Facilities across the country. (See Ellis & Hicken, CNN Investigations, "Sick, Dying, and Raped in America's Nursing Homes", available at: https://www.cnn.com/interactive/2017/02/health/nursing-home-sex-abuse-investigation/

Until *Samantha B.*, these corporations would avoid or limit responsibility, particularly if there was no history or warning of sexual misconduct by the offending employee. Now, these corporations may be held vicariously liable, foreclosing them from just burying their heads in the sand and maximizing revenue at the expense of patient safety.

***Samantha B.* Holding Number 3: The Jury was Properly Instructed that Defendants had the Ability to Search for Valencia's Prior Sex Assault Conviction**

In relation to Valencia's prior arrest and conviction for sex crimes eleven years prior to his hiring, the trial court instructed the jury that every person and corporation has the ability to access public records, including an applicant's criminal history. (*Samantha B.*, *supra*, 77 Cal.App.5th at p. 102.) Defendants argued that the jury instruction was given in error as they had no right, and therefore no duty, to search for criminal records more than seven years old. In doing so, they relied on the Investigative Consumer Reporting Agencies Act, which disallows an investigative consumer reporting agency from furnishing reports showing arrests or convictions over 7 years old.

The Court of Appeal held that there was no error, holding: "Nothing prevents

Aurora or Signature from going beyond seven years to search for arrests and convictions." *Samantha B.* noted that Defendants were not confined to using an investigative consumer reporting agency. In fact, under Labor Code section 432.7(f), despite the general limitation against employers asking applicants about arrests that did not lead to convictions or convictions that have been sealed, the labor code specifically allows a healthcare facility to inquire as to applicants who would have regular access to patients regarding whether they have ever been arrested for a sex offense. The purpose behind section 432.7(f) is to protect vulnerable patients and the elderly from sexual exploitation and misconduct.

In short, "a health facility has a duty to keep its patients safe. The trial court's instructions tell the jury it can decide whether Aurora and Signature breached the duty to provide safety by, among other matters, failing to conduct a full investigation as the law permits." (*Ibid.*) Lastly, the jury instruction did not instruct the jury that Defendants had an obligation to inspect the public record for Valencia's conviction; only that they had the right to. (*Ibid.*)

Again, this opinion is critical in sex abuse cases where the employer failed to do a thorough and complete background check. In *Samantha B.*, the jury instruction allowed by the judge was a devastating instruction against the defense. In all sexual assault and abuse cases involving an offending employee with a criminal record, not just those involving hospitals or healthcare providers, the plaintiff's attorney should utilize *Samantha B.* to advance instructions that tell the jury that corporations have the right and ability to search for an applicants' arrests and convictions that are of a sexual nature.

***Samantha B.* Holding Number 4: Evidence of the Failure to Report to the CDPH was Proper and Admissible.**

During trial, the jury learned that even after Defendants learned of Valencia's sexual misconduct with residents and terminated him, they did not report the events to the California Department of Public Health in violation of state law and regulations. The trial court refused to provide a remedial instruction that the jury should not use the failure to report as evidence of neglect or negligence. On appeal, Defendants argued that such after-the-fact wrongdoing was irrelevant and unduly prejudicial.

The Court of Appeal disagreed. *Samantha B.* explained that "the obvious purpose of regulations requiring such reports is to protect patient safety. Aurora's failure to make a timely report is simply evidence of a lack of concern for patient safety." Accordingly, the failure to report was "relevant to show neglect, that is, the failure to protect patients from health and safety hazards."

This holding is particularly important given language in *Carter,* 198 Cal. App.4th at p. 409, where the 4th District found that after-the-fact charting fraud, errors, and omissions were not relevant as to the wrongdoing at issue. In *Samantha B.*, the Court of Appeal found that the corporate failure to report in violation of California laws supported a finding of reckless neglect and corporate ratification under the Elder Abuse Act.

Conclusion

There were actually additional holdings and findings in *Samantha B.* that assist the plaintiff-side practitioner. The Court of Appeal held that certain jury instructions regarding staffing ratios were appropriate. *Samantha B.* rejected the Defendant's argument that a 35% allocation of fault to Valencia was too low since he "play[ed] the most direct and culpable role in the injury." The Court also found ample evidence of malice to support the relatively modest punitive damage award.

The opinion is absolute gold to achieve justice for those most vulnerable to be victimized by corporate greed in allowing unsupervised employees to rape and exploit patients.

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