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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

MAURO PAZIENTI,

Plaintiff and Appellant,

v.

PAULA J. WHITEMAN,

Defendant and Respondent.

B270035

(Los Angeles County  
Super. Ct. No. BC483570)

APPEAL from a judgment of the Superior Court of Los Angeles County, Mark V. Mooney, Judge. Reversed.

Steven B. Stevens for Plaintiff and Appellant.

Lewis Brisbois Bisgaard & Smith, Gregory G. Lynch, Kristi K. Hedrick and John J. Weber for Defendant and Respondent.

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Plaintiff and appellant Mauro Pazienti appeals the trial court's grant of summary judgment in favor of defendant and respondent Paula J. Whiteman, M.D., an emergency room physician at Cedars-Sinai Medical Center (Cedars-Sinai), on his claim for medical negligence. Pazienti claims Dr. Whiteman negligently failed to diagnose and treat him for an impending heart attack while he was her patient in the emergency department. Because plaintiff has demonstrated triable issues of material fact exist on the question of whether Dr. Whiteman breached the duty of care, and Dr. Whiteman failed to meet her initial burden of production to demonstrate the nonexistence of a material fact regarding proximate cause, we reverse.

#### FACTUAL AND PROCEDURAL BACKGROUND

##### 1. *Treatment of Pazienti at Cedars-Sinai*

On the afternoon of January 30, 2011, 51-year-old Pazienti, accompanied by his friend Janeen Krikorian, went to the Cedars-Sinai Medical Center emergency room on the advice of his physician, Payam Shadi, an internist. Pazienti had telephoned Dr. Shadi because he was feeling unwell and had nausea and vomiting. Pazienti had high blood pressure and had suffered a brain aneurysm in 2009; consequently he had had a ventriculoperitoneal shunt placed in his head.

After Pazienti and Krikorian arrived at Cedars-Sinai's emergency department, a technician took an EKG from Pazienti at 4:06 p.m. The EKG was abnormal. The physician or technician who prepared the EKG report recommended it be repeated. At 4:08 p.m., Nurse Jacqueline Christopher noted in Pazienti's records that he reported "feeling weak all over & a little unsteady when walking, [Krikorian] states 'he's just a little wobbly, but almost his normal self' dizziness & 'funny feeling'

continues since yesterday, also with c/o chest pain to Lt side of chest, worse with movement & deep inspiration [inhaling].”

Dr. Whiteman, an attending physician in the emergency department, saw Pazienti at 4:09 p.m. Both Pazienti and Krikorian told her that Dr. Shadi had sent Pazienti to the emergency room for a CT scan of his head. At their request, Dr. Whiteman spoke with Dr. Shadi on the telephone.

Pazienti complained to Dr. Whiteman of abrupt onset vomiting and dizziness starting the previous evening, and said he felt “wobbly.” He felt discomfort in his chest with inspiration and his head felt funny. Dr. Whiteman examined Pazienti and “conducted a review of all systems,” including a “cardiovascular review of symptoms,” which was negative. Laboratory tests indicated Pazienti’s glucose level and white blood cell count were elevated. A chest X-ray and CT scan were also conducted. Dr. Whiteman ordered a neurological consult to check the shunt. Other physicians concluded Pazienti’s shunt was functioning properly.

At some point after her initial examination of Pazienti, Dr. Whiteman reviewed Nurse Christopher’s note. Dr. Whiteman returned to Pazienti’s bedside to inquire further whether he was experiencing chest pain or pressure. According to Dr. Whiteman, Pazienti responded that he had sporadic discomfort with inspiration. According to Dr. Whiteman, Pazienti never complained to her that he was having chest pain.

At some point between 4:09 p.m. and 7:00 p.m., Dr. Whiteman reviewed the EKG results and interpreted them as abnormal. At some point thereafter, Dr. Shadi arrived at Cedars-Sinai and spoke with Pazienti. Pazienti was admitted to the hospital.

In the early morning hours of January 31, 2011, Pazienti suffered an acute heart attack and went into shock. He underwent emergency surgery, which was unsuccessful, and had to have a heart transplant six weeks later. He suffered brain and organ damage as a result of the heart attack.

*2. Pazienti's complaint*

On April 27, 2012, Pazienti, his children Gaia and Stevie Pazienti, his wife Denise, and Krikorian filed a complaint for medical negligence against Cedars-Sinai, Dr. Whiteman, Dr. Shadi, and two other physicians. Pazienti contended defendants negligently failed to diagnose and properly treat his impending heart attack, proximately causing brain damage and damage to other organs, and necessitating the heart transplant. Dr. Whiteman and Pazienti are the only parties to this appeal.<sup>1</sup>

*3. Motion for summary judgment and appeal*

*a. Defendant's motion for summary judgment*

On July 14, 2014, Dr. Whiteman moved for summary judgment, arguing the undisputed evidence established there was no breach of the standard of care and her actions did not cause or contribute to any injury to Pazienti. In support, she offered, inter alia, the expert declaration of Howard Bessen, M.D., a board certified emergency medicine physician. Dr. Bessen's opinion was based on his education, training, and experience, and upon

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<sup>1</sup> According to respondent, the trial court sustained demurrers as to the claims of Gaia, Stevie, Denise, and Krikorian, and they have been dismissed from the action. The trial court granted summary judgment in favor of Cedars-Sinai and two of the other physicians. The matter was "otherwise resolved" as to Dr. Shadi.

his review of Pazienti's medical records and the deposition testimony of Dr. Whiteman and others.

According to Dr. Whiteman's deposition testimony, Pazienti did not complain of chest pain, and Dr. Whiteman recorded that the pain "was not chest pain *per se*." Dr. Whiteman conducted a "thorough and timely" examination of Pazienti. When she saw the nursing note prepared by Nurse Christopher, she returned to Pazienti's room to further inquire whether he felt pain or pressure. Both Pazienti and Krikorian informed her that the chest discomfort was sporadic and with inhalation.

When Dr. Whiteman spoke with Dr. Shadi on the telephone as Pazienti requested, Dr. Shadi stated he was coming to the emergency department with the patient's office chart. Thereafter Dr. Whiteman returned to Pazienti's room and observed Dr. Shadi there with him, with the office chart. Dr. Whiteman showed the abnormal EKG to Dr. Shadi. Dr. Shadi said he had a prior EKG for Pazienti, which was in the file he brought from his office. He compared the two and informed Dr. Whiteman that the emergency department EKG was "fine and unchanged for this patient." Dr. Shadi thereafter decided to admit Pazienti to the hospital. He "assumed care of the patient and stated that he would take care of everything."

Dr. Bessen opined that Dr. Whiteman had not breached the standard of care and her treatment of Pazienti was not a substantial factor in causing any damage or injury. Patients usually describe cardiac chest pain (pain due to the heart muscle receiving insufficient blood flow) with terms such as pressure, heaviness, tightness, or fullness, and cardiac pain is not affected by respiration or movement. Because "Pazienti's chest discomfort was not characteristic of cardiac chest pain and his EKG was

reportedly unchanged from a prior EKG, and since Dr. Shadi stated that he would take care of everything, there was no indication for Dr. Whiteman to pursue an emergent cardiac work-up in the emergency department.” Dr. Bessen concluded: “[I]t is my opinion, to a reasonable medical probability, that the care and treatment rendered to plaintiff Mauro Pazienti by defendant Paula J. Whiteman, M.D. complied with and met the community standard of care,” and no act or omission on her part was a substantial factor in any injury to Pazienti.

b. *Plaintiff’s opposition*

Pazienti opposed defendant’s motion, relying on the declaration of Jon Beauchamp, M.D., a practicing, board certified emergency medicine physician.<sup>2</sup> Based upon his training, education, and experience, and his review of Pazienti’s medical records, Dr. Beauchamp opined that Dr. Whiteman’s treatment of Pazienti fell below the standard of care and caused injury. He

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<sup>2</sup> Pazienti’s first opposing separate statement of undisputed material facts was defective and fell far short of compliance with Code of Civil Procedure section 437c, subdivision (b)(3) and California Rule of Court, rule 3.1350, subdivision (f). It did not plainly and concisely indicate which facts were disputed, nor did it comply with the familiar two-column requirement. (See generally *Rush v. White Corp.* (2017) 13 Cal.App.5th 1086, 1097.) Additionally, in lieu of a memorandum of points and authorities, Pazienti’s counsel filed a declaration in support of the opposition that purported to establish numerous evidentiary facts, mostly without any citation to the record, and attached several exhibits. Dr. Whiteman filed 31 objections to the declaration and exhibits, as well as to Dr. Beauchamp’s declaration. The trial court sustained the objections to Pazienti’s counsel’s declaration in its entirety.

explained that Pazienti had “important risk factors” for heart disease, including a history of smoking, high blood pressure, and dyslipidemia. His symptoms of nausea and vomiting are commonly associated with a heart attack involving the inferior portion of the heart, the type of heart attack Pazienti had. The EKG readings were consistent with Pazienti having an acute heart attack or being at imminent risk of having one. Moreover, patients may have typical and atypical complaints when suffering from cardiac occlusions. “Given his symptoms of left sided chest discomfort, nausea and vomiting, his risk factors for having heart disease, and the findings on his EKG obtained in the Emergency Department,” Dr. Whiteman “should have considered Mr. Pazienti to be at risk for having an acute heart attack or at imminent risk of one, and should have consulted with a cardiologist while he was in the Emergency Department and before his admission to the hospital.” Dr. Beauchamp concluded that Dr. Whiteman breached the standard of care used by reasonably prudent healthcare providers in emergency medicine by failing to recognize that Pazienti was having, or at imminent risk of having, a heart attack and by failing to consult with a cardiologist while the patient was still in the emergency department. Her failure to do so caused a delay in treatment, which in turn caused the acute damage to Pazienti’s heart.

On September 24, 2014, Dr. Whiteman filed a reply, arguing that plaintiff’s opposition and separate statement failed to comply with Code of Civil Procedure section 437c<sup>3</sup> and the

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<sup>3</sup> All further undesignated statutory references are to the Code of Civil Procedure.

applicable rules of court;<sup>4</sup> Dr. Beauchamp's declaration failed to raise a triable issue of fact on the standard of care or causation; and Pazienti's injuries occurred after he had been admitted and was under Dr. Shadi's care.

On October 1, 2014, the trial court granted summary judgment for all defendants other than Dr. Whiteman. As to Dr. Whiteman, the court continued the hearing to allow Dr. Shadi to be deposed, and permitted the parties to submit supplemental memoranda of points and authorities, separate statements, and declarations.

*c. Supplemental briefing and expert declarations*

Thereafter Dr. Shadi was deposed on November 21, 2014.

The parties filed a series of supplemental declarations, briefs, separate statements, and evidentiary and other objections. Dr. Whiteman provided a supplemental declaration by Dr. Bessen and a declaration from Dr. Peter Pelikan. These declarations opined that once Dr. Shadi assumed care of Pazienti, even though Pazienti was "physically still in the emergency department," Dr. Shadi had full responsibility for his care and Dr. Whiteman no longer had responsibility for him.<sup>5</sup>

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<sup>4</sup> Although the trial court found Pazienti's counsel's errors had "made it very difficult" for the court to consider the motion, it declined to exercise its discretion to deny the motion on the basis of counsel's failure to adhere to the applicable rules.

<sup>5</sup> Dr. Bessen opined: "[I]t is well-accepted that once an admitting physician has accepted care of the patient, the admitting physician has assumed full responsibility for the patient." Therefore, "once Dr. Shadi assumed care of Mr. Pazienti, even though Mr. Pazienti was physically still in the emergency department, Dr. Shadi had full responsibility" for his



Pazienti offered a supplemental declaration of Dr. Beauchamp, stating, among other things, that in his opinion, Dr. Whiteman was not relieved of responsibility for Pazienti's care while Pazienti remained in the emergency department. The hospital's medical records demonstrated Dr. Whiteman was Pazienti's attending provider from 4:09 p.m. until at least 9:05 p.m. In October 2015, Pazienti filed a second supplemental declaration of Dr. Beauchamp, stating that both Drs. Whiteman and Shadi had breached the standard of care, proximately causing his injuries. In August and September 2015, Pazienti filed three declarations by Howard J. Kline, M.D., a cardiologist. Dr. Kline opined regarding both breach of the standard of care and proximate cause.

d. *The trial court's ruling*

The trial court granted summary judgment for Dr. Whiteman on November 4, 2015. It sustained Dr. Whiteman's objections to Dr. Kline's declarations in their entirety on the ground he did not qualify as an expert under Health and Safety Code section 1799.110.

The court concluded Dr. Whiteman had established she was entitled to judgment as a matter of law, based on Dr. Bessen's and Dr. Pelikan's declarations. According to Dr. Bessen, Dr. Whiteman had complied with the standard of care and did not cause or contribute to plaintiff's injuries. According to Drs. Bessen and Pelikan, once Dr. Shadi arrived, he became the physician responsible for plaintiff's care. The trial court faulted Dr. Beauchamp's declarations for failing to specify how Dr.

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care and Dr. Whiteman no longer had any responsibility. Dr. Pelikan's declaration was to the same effect.

Whiteman breached the standard of care and how any conduct by her caused injury to plaintiff. Further, Dr. Beauchamp failed to opine regarding “the relative responsibilities of Dr. Whiteman and Dr. Shadi once Dr. Shadi arrive[d]” at the emergency department.

The trial court entered judgment against Pazienti on December 10, 2015. Pazienti filed a timely notice of appeal.

### DISCUSSION

Pazienti contends the trial court erred by granting summary judgment. We agree, because Dr. Whiteman failed to demonstrate the absence of a triable issue of fact on either her alleged breach of the duty of care or proximate causation.

#### 1. *Standard of review*

Summary judgment is properly granted if all the papers submitted show no triable issue of material fact exists and the moving party is entitled to judgment as a matter of law. (§ 437c, subd. (c); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849; *Sanchez v. Kern Emergency Medical Transportation Corp.* (2017) 8 Cal.App.5th 146, 152.) A defendant meets its burden by showing that one or more essential elements of the plaintiff’s cause of action cannot be established, or that there is a complete defense. (§ 437c, subd. (o); *Aguilar*, at p. 849; *Saelzler v. Advanced Group 400* (2001) 25 Cal.4th 763, 768; *Garibay v. Hemmat* (2008) 161 Cal.App.4th 735, 741.) If the defendant makes this showing, the burden shifts to the plaintiff to demonstrate a triable issue of fact exists. (*Aguilar*, at p. 849.)

We review a trial court’s ruling granting summary adjudication de novo, liberally construing plaintiff’s evidence while strictly scrutinizing defendant’s showing. (*Jacks v. City of Santa Barbara* (2017) 3 Cal.5th 248, 273; *Saelzler v. Advanced*

*Group 400, supra*, 25 Cal.4th at p. 768.) We consider all the evidence set forth in the papers, except that to which objections have been made and sustained, and all inferences reasonably deducible from the uncontradicted evidence. (§ 437c, subd. (c); *Perry v. Bakewell Hawthorne, LLC* (2017) 2 Cal.5th 536, 542.) “We apply the same three-step analysis required of the trial court. We begin by identifying the issues framed by the pleadings since it is these allegations to which the motion must respond. We then determine whether the moving party’s showing has established facts which justify a judgment in movant’s favor. When a summary judgment motion *prima facie* justifies a judgment, the final step is to determine whether the opposition demonstrates the existence of a triable, material factual issue.’” (*Gutierrez v. Girardi* (2011) 194 Cal.App.4th 925, 931-932.) Any doubts concerning the propriety of the motion must be resolved in favor of the party opposing the motion. (*Salas v. Sierra Chemical Co.* (2014) 59 Cal.4th 407, 415.)

## 2. Medical negligence

“The elements of a cause of action for medical malpractice are: (1) a duty to use such skill, prudence, and diligence as other members of the profession commonly possess and exercise; (2) a breach of the duty; (3) a proximate causal connection between the negligent conduct and the injury; and (4) resulting loss or damage.” (*Johnson v. Superior Court* (2006) 143 Cal.App.4th 297, 305; *Borrayo v. Avery* (2016) 2 Cal.App.5th 304, 310.)

In professional malpractice cases, expert testimony is required to “‘prove or disprove that the defendant performed in accordance with the standard prevailing of care,’” unless the negligence is obvious to a layperson. (*Johnson v. Superior Court, supra*, 143 Cal.App.4th at p. 305; *Garibay v. Hemmat, supra*,

161 Cal.App.4th at p. 741; *Kelley v. Trunk* (1998) 66 Cal.App.4th 519, 523.) A plaintiff must show that the defendant's breach of the standard of care was the cause, within a reasonable medical probability, of his or her injury. (*Bushling v. Fremont Medical Center* (2004) 117 Cal.App.4th 493, 509.)

Health and Safety Code section 1799.110, subdivision (c), provides that in an action involving a claim of negligence against a physician arising out of emergency medical services provided in a general acute care hospital emergency department, "the court shall admit expert medical testimony only from physicians and surgeons who have had substantial professional experience within the last five years while assigned to provide emergency medical coverage in a general acute care hospital emergency department." (See generally, e.g., *Sigala v. Goldfarb* (1990) 222 Cal.App.3d 1450, 1454-1456; *Petrou v. South Coast Emergency Group* (2004) 119 Cal.App.4th 1090, 1093-1094.) Here, it is undisputed that Drs. Bessen and Beauchamp qualified as experts under this provision.<sup>6</sup>

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<sup>6</sup> As noted, the trial court excluded the declarations of Dr. Kline, offered by Pazienti, on the ground Dr. Kline was not a qualified emergency room physician for purposes of section 1799.110 of the Health and Safety Code. Pazienti argues that Health and Safety Code section 1799.110, subdivision (c) applies to expert testimony on the standard of care, but not expert testimony on causation; therefore, Dr. Kline's declarations were admissible insofar as they pertained to causation and should not have been excluded. We need not reach this question because we conclude, even absent Dr. Kline's declarations, that triable issues of material fact exist and summary judgment was improperly granted.

3. *Pazienti demonstrated the existence of a triable issue of material fact on the issue of breach of the prevailing standard of care*

Dr. Whiteman met her initial burden of production to make a prima facie showing that she did not breach the duty of care applicable to an emergency room physician. Dr. Bessen opined, “to a reasonable medical probability,” that the care and treatment rendered by Dr. Whiteman complied with the community standard of care. He set forth the facts upon which this opinion was based: Pazienti did not complain of chest pain to Dr. Whiteman; his reported symptoms were inconsistent with a cardiac issue; Dr. Whiteman appropriately followed up Nurse Christopher’s note by asking Pazienti whether he had chest pain; and she confirmed with Dr. Shadi that the EKG taken in the emergency room was normal for Pazienti. Moreover, because Dr. Shadi assumed the patient’s care, there was no reason for Dr. Whiteman to pursue a cardiac work-up.

However, Pazienti met his burden to demonstrate a triable issue of fact existed regarding breach of the standard of care, both by demonstrating that some of the facts Dr. Bessen relied upon were not undisputed, and by presenting the declaration of his own expert, Dr. Beauchamp. (See *Aguilar v. Atlantic Richfield Co.*, *supra*, 25 Cal.4th at pp. 850-851 [once defendant meets her initial burden, burden shifts to plaintiff to raise a triable issue of material fact].)

Dr. Beauchamp opined that Pazienti had “important risk factors for heart disease”; he reported nausea and vomiting, “symptoms commonly associated with a heart attack involving the inferior portion of the heart (which is what he had)”; he “presented to the emergency department with a complaint of

several hours of left sided chest discomfort which was consistent with him having an acute heart attack or at imminent risk of having one”; and the EKG was abnormal. Patients may have typical and atypical complaints while suffering from cardiac occlusions, “among them, those that Mr. Pazienti complained of.” Given the foregoing, Dr. Whiteman should have considered Pazienti to be at imminent risk of having a heart attack and should have consulted with a cardiologist while he was in the emergency department, prior to his admission to the hospital. Dr. Beauchamp opined: “Based on a reasonable degree of medical certainty, based on my education, experience and training, it is my opinion that” Dr. Whiteman and Cedars-Sinai “did not use such care as reasonably prudent healthcare providers practicing Emergency Medicine in the same or similar locality would have provided under similar circumstances. Dr. Whiteman breached the standard of care by not recognizing that Mr. Pazienti presented symptoms on arrival at 3:25 p.m. of the onset of an acute heart attack or was at imminent risk of one, and by not consulting with a cardiologist while the patient was still in the emergency department.” Thus, Dr. Beauchamp explained the factual basis for his conclusion, which contradicted Dr. Bessen’s opinion. These conflicting expert opinions created a triable issue of fact regarding whether Dr. Whiteman breached the standard of care, that cannot be resolved by way of summary judgment. (See *Alvis v. County of Ventura* (2009) 178 Cal.App.4th 536, 539; *Hernandez v. KWPH Enterprises* (2004) 116 Cal.App.4th 170, 176; *Jacoves v. United Merchandising Corp.* (1992) 9 Cal.App.4th 88, 106.)

Furthermore, several of the facts upon which Dr. Bessen’s opinion was based were disputed. Dr. Bessen’s opinion depended

in part on the assumption that Dr. Whiteman had not been advised that Pazienti was experiencing chest pain. But Krikorian – who accompanied Pazienti in the emergency department – testified at her deposition that she told “every nurse, every doctor” that Pazienti was experiencing chest pain. She recalled discussing with Dr. Whiteman, in the emergency room, her “grave concern for [Pazienti’s] growing chest pain.”

Further, Dr. Bessen opined that there was no indication for Dr. Whiteman to pursue an emergency cardiac work-up because Dr. Shadi told her the EKG taken in the emergency department was unchanged from a prior EKG. But Dr. Shadi testified at his deposition that he had never ordered a prior EKG for Pazienti, did not have such a comparison EKG with him in the emergency room, and did not tell Dr. Whiteman that the EKG was unchanged or normal for Pazienti.

Dr. Shadi also denied at his deposition that he was the admitting physician. Moreover, the evidence regarding the time Dr. Shadi arrived, and when responsibility transferred to him, was unclear and in dispute. Dr. Shadi stated that he did not see Pazienti until after Pazienti had been admitted, just as Pazienti was about to “go upstairs” to a room, “later at night,” at approximately 9:00 p.m. Dr. Beauchamp opined that, based on Cedars-Sinai’s medical records, Dr. Whiteman was Pazienti’s attending provider from 4:09 p.m. until 9:05 p.m. Thus, the evidence showed Dr. Whiteman was the treating physician from at least approximately 4:00 p.m. until 9:00 p.m., supporting Dr. Beauchamp’s opinion that Pazienti was in the emergency department under Dr. Whiteman’s care for a substantial period.

Thus, by demonstrating that some of the facts upon which Dr. Bessen based his opinion were disputed, Pazienti established the existence of a triable issue.

Dr. Whiteman's arguments to the contrary are not persuasive. She urges that Dr. Beauchamp's declaration was inadequate because it did not state, in paragraph 12, the facts upon which he based his opinion. This is a mischaracterization of the declaration. While not every fact was included in paragraph 12, Dr. Beauchamp's declaration elsewhere explained, "The opinions expressed herein are based upon my review of medical records of the plaintiff at Cedars between January and March of 2011." Dr. Beauchamp then listed the particular records to which he referred and attached them to the declaration, explained Pazienti's risk factors and pertinent medical history, and discussed his symptoms and treatment, as described in the medical records. In paragraph 11, Dr. Beauchamp set forth the factual basis for his opinion in some detail. Dr. Whiteman's attempt to extract and examine a single paragraph of the declaration, without regard to the remainder, is not persuasive. (See *Tortorella v. Castro* (2006) 140 Cal.App.4th 1, 11, fn. 6 [rejecting argument that plaintiff failed to produce competent evidence of causation because final sentence of expert's declaration failed to state conclusion was "to a reasonable degree of medical probability"; taking the declaration as a whole and construing it liberally in favor of plaintiff, the declaration was sufficient].)

Dr. Whiteman also criticizes Dr. Beauchamp's November 24, 2014 supplemental declaration on the ground it was vague. But, as we have discussed, Dr. Beauchamp's first declaration was sufficient to establish a triable issue existed. Moreover, the



November 24, 2014 supplemental declaration expressly stated it was intended to supplement the prior declaration, and was based upon his findings and conclusions as stated in his original.

4. *Dr. Whiteman failed to make a prima facie showing of the nonexistence of a triable issue on the question of causation*

Even though Pazienti established a triable issue of fact on the issue of breach of duty, summary judgment for Dr. Whiteman would nonetheless be proper had she met her burden to establish the absence of causation, that is, that her alleged breach of care was not the proximate cause of Pazienti's injuries. (See *Saelzler v. Advanced Group 400*, *supra*, 25 Cal.4th at pp. 775-776.) This, she failed to do.

“ ‘Like breach of duty, causation also is ordinarily a question of fact which cannot be resolved by summary judgment. The issue of causation may be decided as a question of law only if, under undisputed facts, there is no room for a reasonable difference of opinion.’ ” (*Lawrence v. La Jolla Beach & Tennis Club, Inc.* (2014) 231 Cal.App.4th 11, 33.) As the moving party, Dr. Whiteman had the initial burden to make a prima facie showing of the nonexistence of any triable issue of material fact in regard to causation. (See *YDM Management Co., Inc. v. Sharp Community Medical Group, Inc.* (2017) 16 Cal.App.5th 613, 622.) For purposes of summary judgment, a prima facie showing is evidence that would require a reasonable trier of fact not to find any underlying material fact more likely than not. (*Y.K.A. Industries, Inc. v. Redevelopment Agency of City of San Jose* (2009) 174 Cal.App.4th 339, 353.)

Dr. Bessen opined, to a reasonable medical probability, that “no act or omission to act” by Dr. Whiteman was a substantial factor in causing any injury or damage to Pazienti. But

Dr. Bessen offered no explanation for his conclusion on this point. As plaintiff points out, Dr. Bessen's opinion was simply a reformulation of his conclusion that Dr. Whiteman met the standard of care. The remainder of the paragraph regarding causation states: "Dr. Whiteman conducted a thorough assessment of the patient based on his history and his symptoms. The patient complained of a sporadic chest discomfort which was worse with inspiration and movement. As described, this did not appear to be cardiac in etiology. Despite the fact that the patient did not complain of chest pain to Dr. Whiteman, upon reviewing the nursing documentation Dr. Whiteman diligently returned to the patient and his companion to conduct a further inquiry. The patient and his companion confirmed that it was a sporadic discomfort upon inspiration and movement." This explanation does not demonstrate a lack of causation; it simply reiterates Dr. Bessen's opinion that Dr. Whiteman did not breach the community standard of care. There is no explanation why, if the standard of care was in fact breached, causation is nonetheless absent. For example, Dr. Bessen did not opine that Pazienti's heart attack and resultant damage were inevitable even if appropriate treatment had begun earlier, or that the delayed treatment was not a substantial factor in the injuries. Such an explanation is also absent from the declaration's remaining paragraphs. An expert's " 'opinion rendered without a reasoned explanation of why the underlying facts lead to the ultimate conclusion has no evidentiary value because an expert opinion is worth no more than the reasons and facts on which it is based. [Citations.]' " (*Powell v. Kleinman* (2007) 151 Cal.App.4th 112, 123; *Bushling v. Fremont Medical Center*, *supra*, 117 Cal.App.4th at p. 510; *Kelley v. Trunk*, *supra*, 66 Cal.App.4th at p. 521.)

Dr. Pelikan's declaration and Dr. Bessen's supplemental declaration opined that once an admitting physician accepts care of the patient, the emergency room physician's responsibility ceases; they did not address causation. To the extent Dr. Whiteman argues her alleged negligence was not a substantial factor in Pazienti's injuries because Dr. Shadi took over his care, there is a factual dispute as to what time the transfer of responsibility occurred and which doctor admitted Pazienti to the hospital. As discussed, there was evidence that Dr. Shadi did not arrive until approximately 9:00 p.m. Thus, crediting Dr. Pelikan's and Dr. Bessen's declarations, and assuming Dr. Whiteman seeks to establish she was responsible for Pazienti's care only briefly, there is a factual dispute regarding what time the transfer of responsibility to Dr. Shadi occurred.

Given the foregoing, Pazienti did not need to show lack of causation. On summary judgment, the burden to demonstrate the existence of a triable issue of material fact shifts to the plaintiff only after the defendant meets its burden. "Unless the moving party meets its burden, summary judgment cannot be ordered, even if the opposing party does not respond sufficiently or at all." (*Johnson v. Superior Court, supra*, 143 Cal.App.4th at p. 305.)

In any event, Pazienti did meet his burden to demonstrate causation. Dr. Beauchamp opined in his first declaration that Dr. Whiteman's failure to diagnose the impending heart attack and consult with a cardiologist "caused the acute damage to [Pazienti's] heart because it delayed by several hours (eight to ten) the diagnosis of Mr. Pazienti as having or at imminent risk of having a heart attack, and his receiving timely definitive

treatment for his condition. Such cardio treatment would have averted the significant damage to Mr. Pazienti's heart, shock and hypoxia which caused brain damage, requiring a heart transplant and its attendant consequences." In his supplemental declaration, Dr. Beauchamp opined that there was a "proximate causal connection between the negligent conduct" of Dr. Whiteman and other Cedars-Sinai employees that caused Pazienti's injuries. While this conclusion was not further detailed, Dr. Beauchamp's declaration was sufficient. (See *Powell v. Kleinman*, *supra*, 151 Cal.App.4th at p. 129 [declaration regarding causation, similar to that produced here, was sufficient].) An expert's declaration, offered in opposition to summary judgment, does not have to be detailed and is entitled to all favorable inferences. (*Id.* at p. 125; *Lattimore v. Dickey* (2015) 239 Cal.App.4th 959, 969-970 [on summary judgment, we must liberally construe the evidence in support of the party opposing summary judgment]; *Johnson v. Superior Court*, *supra*, 143 Cal.App.4th at p. 308.)

Dr. Whiteman argues that Dr. Beauchamp's declarations showed there was at most "a chance" the alleged breach caused the injury, an insufficient showing to defeat summary judgment. (*Jones v. Ortho Pharmaceutical Corp.* (1985) 163 Cal.App.3d 396, 402-403 [in a personal injury action causation must be proven within a reasonable medical probability; mere possibility alone is insufficient to establish a prima facie case]; *Lattimore v. Dickey*, *supra*, 239 Cal.App.4th at p. 970.) But this is incorrect. Nothing in Dr. Beauchamp's original or supplemental declarations was equivocal; he did not state or imply there was only a chance the alleged negligence caused the injury. To the contrary, his opinion

was definitive: Dr. Whiteman’s conduct “caused the acute damage to [Pazienti’s] heart.”

The fact Dr. Beauchamp opined that Cedars-Sinai, Dr. Shadi, and other doctors *also* were negligent does not exonerate Dr. Whiteman or compel the conclusion that there was nothing more than a chance her conduct caused the injury. Medical negligence is “fundamentally negligence,” and to prevail a plaintiff need only show the defendant’s conduct was a substantial factor in causing the harm, that is, a factor that a reasonable person would consider to have contributed to the harm. A defendant may not avoid liability just because some other person, condition or event was also a substantial factor in causing the harm. (*Uriell v. Regents of University of California* (2015) 234 Cal.App.4th 735, 742-744, 747 [jury instructions describing substantial factor standard were not erroneous in medical malpractice case].)

DISPOSITION

The judgment is reversed. Appellant is to recover his costs on appeal.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

DHANIDINA, J.\*

We concur:

EDMON, P. J.

LAVIN, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.