

[Los Angeles Jury Finds Health Insurer is Required to Pay for Out-of-State Liver Transplant](#)

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With the backdrop of the raging battle over healthcare reform, a Los Angeles jury rendered on Monday a verdict in favor of an insured against Anthem Blue Cross arising out of the health insurer's refusal to provide coverage for an out-of-state liver transplant. The case, [Ephram Nehme v. Wellpoint, Inc.; Blue Cross of California d/b/a/ Anthem Blue Cross, initially filed on August 14, 2008](#), has been closely followed in the legal and health insurance communities.

As reported in the [Los Angeles Times](#), the jury found, by a vote of 10-2, that Anthem Blue Cross had breached its contract by refusing to pay for the cost of the out-of-state transplant operation, and by a vote of 9-3 that Anthem Blue Cross had acted in bad faith. Anthem Blue Cross stated in the article that its contract provides that transplants must be performed in California and that it had approved Nehme for a transplant at UCLA Medical Center once his name came up on the UCLA waiting list. The same article stated that the jury awarded Nehme \$206,000 for the cost of the operation, and that he would also be able to recoup his legal fees. (Under California law, pursuant to the decision in [Brandt v. Superior Court](#), upon a finding that an insurer has acted in bad faith, the insured is able to seek to recover only those attorney's fees incurred to obtain the contract benefits, but not the fees incurred to show bad faith.) The jury did not, however, award any punitive damages against Anthem Blue Cross.

The trial court proceedings are not yet concluded, with further post-trial motions to be filed, and it is unknown whether Anthem Blue Cross will appeal the jury's verdict.