



Plaintiff: Delayed visit by doctor after surgery led to organ failure

Type: Verdict-Plaintiff

Amount: \$49,250,000

State: Illinois

Venue: Cook County

Court: Cook County District Court, IL

Injury Type(s):

- *other* - sepsis; ischemia; neuropathy; septic shock; organ failure
- *cancer*
- *mental/psychological* - anxiety; depression
- *gastrointestinal/digestive* - gastrointestinal complications; volvulus; bowel/colon/intestine, perforation

Case Type:

- *Medical Malpractice* - Surgeon; Hospital; Gallbladder; Misdiagnosis; Delayed Diagnosis; Delayed Treatment; Infection Control; Failure to Consult; Failure to Communicate

Case Name: Joseph Browning and Christine Browning v. Advocate Health and Hospital Corp. d/b/a Advocate Medical Group, Advocate Health and Hospital Corp. d/b/a Advocate Lutheran General Hospital; and Daniel Resnick, M.D., No. 2016-L-006592

Date: March 16, 2022

Plaintiff(s):

- Joseph Browning, (Male, 42 Years)
- Christine Browning, (, 0 Years)

Plaintiff Attorney(s):

- Timothy Walter Heath; Heath & Heath, P.C.; Chicago IL for Joseph Browning,, Christine Browning

**Plaintiff Expert
(s):**

- Neil H. Pliskin Ph.D.; Neuropsychology; Chicago, IL called by: Timothy Walter Heath
- David S. Gibson MBA, MRC; Economics; Chiago, IL called by: Timothy Walter Heath
- Ronald Smolarski Ph.D.; Life Care Planning; Ann Arbor, MI called by: Timothy Walter Heath
- Jeffrey P. Snow M.D.; Colon & Rectal Surgery; , called by: Timothy Walter Heath
- Patrick J. Barrett M.D.; Physiology; Chiago, IL called by: Timothy Walter Heath
- Richard Sweet M.D.; Nephrology; San Francisco, CA called by: Timothy Walter Heath

Defendant(s):

- Arvey Stone M.D.
- MAP PRAA Legacy PC
- Daniel Resnic M.D.
- Harold Bregman M.D.
- Nishant A. Shah M.D.
- Associates Nephrology
- Robert Citronberg M.D.
- Advocate Health and Hospital Corp.
- Advocate Lutheran General Hospital
- Northwest Infectious Disease North
- North Suburban Pulmonary & Critical Care Consultants

**Defense
Attorney(s):**

- Robert L. Larsen; Cunningham Meyer & Vadrine, P.C.; Warrenville, IL for Advocate Health and Hospital Corp., Daniel Resnic M.D.
- David C. Burtker; Cunningham Meyer & Vadrine, P.C.; Chicago, IL for Advocate Health and Hospital Corp., Daniel Resnic M.D.
- Michael F. Compton; Cunningham Meyer & Vadrine, P.C.; Chicago, IL for Advocate Health and Hospital Corp., Daniel Resnic M.D.
- None reported for Northwest Infectious Disease North, North Suburban Pulmonary & Critical Care Consultants, Harold Bregman M.D., Robert Citronberg M.D., Associates Nephrology, Nishant A. Shah M.D., Advocate Lutheran General Hospital, MAP PRAA Legacy PC, Arvey Stone M.D.

**Defendant
Expert(s):**

- John P. Kress M.D.; Critical Care; Chicago, IL called by: for Robert L. Larsen, David C. Burtker, Michael F. Compton
- John J. Flaherty M.D.; Infectious Diseases; Chicago, IL called by: for Robert L. Larsen, David C. Burtker, Michael F. Compton
- Arnold S. Burns M.D.; Kidney Diseases; Chicago, IL called by: for Robert L. Larsen, David C. Burtker, Michael F. Compton
- Daniel Conway M.D.; Colon & Rectal Surgery; Arlington Heights, IL called by: for Robert L. Larsen, David C. Burtker, Michael F. Compton
- Steven H. Hanus M.D.; Psychiatry; Evanston, IL called by: for Robert L. Larsen, David C. Burtker, Michael F. Compton
- Jeffrey D. Kopin M.D.; Internal Medicine; Chicago, IL called by: for Robert L. Larsen, David C. Burtker, Michael F. Compton
- Richard M. Gore M.D.; Radiology; Evanston, IL called by: for Robert L. Larsen, David C. Burtker, Michael F. Compton
- Richard Katz M.D.; Physical Medicine; St. Louis, MO called by: for Robert L. Larsen, David C. Burtker, Michael F. Compton

Facts:

On Feb. 11, 2015, plaintiff Joseph Browning, 42, a machinist for the city of Chicago, underwent a laparoscopic gallbladder removal surgery at Advocate Lutheran General Hospital, in Park Ridge, Ill. The procedure was performed by Dr. Daniel Resnick.

The next morning, Browning complained of increased pain and it was determined he was not recovering well. By Feb. 13, 2015, he had full-blown sepsis and an intra-abdominal infection. As a result, Browning went into septic shock, had organ failure, and was intubated on Feb. 15, 2015. After being intubated, he had to be put on a higher vent setting and vasopressors for his blood pressure because he was decompensating.

On Feb. 17, 2015, doctors removed fluid from Browning's abdomen that tested positive for two types of bacteria, indicating peritonitis, an inflammation of the abdominal wall. Two specialists opined that Browning had a bowel perforation or ischemia. However, a CT scan performed on Feb. 20, 2015 did not show any sign of an ischemia, bowel dilation or significant free air outside the intestines, all of which are signs of a bowel perforation.

Four days later, on Feb. 24, 2015, a second CT scan was performed. This time, the scan showed significant free air. Based on the findings, Resnick decided to operate on Browning again.

During the procedure, Resnick discovered that Browning had a Peterson's hernia and that Browning's bowel was necrotic and ischemic. As a result, Resnick was forced to remove Browning's small bowel, large bowel and part of his stomach over the course of several surgeries between Feb. 24, 2015, and March 15, 2015.

Browning sued Resnick and the operator of the hospital, Advocate Health and Hospital Corp. Browning alleged the defendants failed to timely diagnose and treat his condition. He also alleged the defendants' actions constituted medical malpractice.

Several other treating physicians and medical offices were also named in the suit, but were ultimately let out of the case. Thus, the matter continued against Resnick and Advocate Health and Hospital only.

Plaintiff's counsel contended that Browning previously underwent a gastric bypass surgery two years earlier, which, unbeknownst to Browning, put him at significantly high risk of developing a Peterson's hernia or a volvulus. However, counsel contended that despite knowing there was a significant high risk of Browning developing a Peterson's hernia, Resnick failed to diagnose the condition earlier. Plaintiff's counsel further contended that Resnick failed to return to Browning's bedside until 13 days after the initial surgery on Feb. 11, 2015, and this caused Browning's bowel to become necrotic and ischemic. In addition, counsel contended that although Resnick insisted he was at Browning's bedside regularly, this was rebutted by witness testimony and the hospital records.

Defense counsel argued that Resnick and his surgical team found no evidence to suggest the need to re-explore the patient until the CT scan on Feb. 24, 2015. Counsel also argued the admitted intra-abdominal infection was a foreseeable risk of the gallbladder removal surgery and it was appropriately being treated by infectious disease, critical care and nephrology specialists. Defense counsel further argued that the hernia happened within 24 hours of the re-exploration surgery and that Browning developed low perfusion to the intestines that resulted in some bacteria escaping into the intestines via translocation.

Injury:

Browning became violently ill following the laparoscopic gallbladder removal surgery. He ultimately developed sepsis, fell into septic shock, suffered multi-system organ failure and had to be intubated. As a result, he was taken for a second surgery, in which he was found to be suffering from a Peterson's hernia, as well as an ischemic and necrotic bowel. Browning had his small and large bowels removed, along with part of his stomach during the course of several surgeries. Later on, he was transferred to the University of Illinois, Chicago Medicine Center, where he was treated for a period of time. He was then released to get a small bowel transplant in November 2015. His new bowel was then connected to his colon and rectum in March 2016.

Due to transplant care, Browning now has to take 70 pills per day, including one pill that is toxic and damaging to the liver. He claimed he is currently in kidney failure and has stage 3 kidney disease because of the toxicity of the necessary pill. As a result, he needs dialysis and will need a kidney transplant within the next three to five years. He also claimed that because of the extensive length of time that he was intubated, he has lost all of his teeth and now has to have specially prepared food. In addition, Browning claimed he developed neuropathy, which is progressive, and he now falls regularly. Browning alleged other medication he is on makes him susceptible to skin cancer and that he has had skin cancer twice since starting the regimen. He also alleged the steroid medications he is on make his skin paper-like and thin and he had an incident when his dog scratched him, requiring 60 stitches. In addition, Browning alleged he suffers from anxiety and depression due to the trauma of the experience and, as a result, he has panic attacks when he goes for frequent doctor's visits and checkups.

Browning claimed he can no longer do things he loves, such as fishing and golfing. He also claimed he has to plan his day around eating his specially prepared meals and using the bathroom. However, he was able to return to work without restrictions.

Defense counsel argued that Browning's kidney disease is not progressive. Counsel further argued that Browning does not have depression or anxiety, but, instead, suffers from an adjustment disorder and that sleep apnea was causing his depression.

Result:

The jury found that the defendants were negligent. It awarded Browning \$49.25 million in damages.

Christine Browning

\$ 6,050,000 loss of society / emotional distress

\$ 6,050,000 Plaintiff's Total Award

Joseph Browning

\$ 4,700,000 Past Medical Cost

\$ 4,000,000 Future Medical Cost

\$ 200,000 Past Lost Earnings

\$ 1,800,000 Future Lost Earnings

\$ 4,000,000 Future Pain Suffering

\$ 3,000,000 Past Pain Suffering

\$ 4,000,000 future emotional distress

\$ 2,000,000 disfigurement

\$ 5,000,000 past loss of normal life

\$ 5,000,000 past emotional distress

\$ 5,500,000 shortened life expectancy

\$ 4,000,000 future loss of normal life

\$ 43,200,000 Plaintiff's Total Award

Trial Information:

Judge: John Kirby

Trial Length: 32 days

**Trial
Deliberations:** 7.5 hours

Jury Vote: unanimous

**Editor's
Comment:** This report is based on information that was provided by plaintiff's and defense counsel.

Writer Yawana Fields

Plaintiff: Surgeon failed to timely diagnose bleeding**Type:** Verdict-Plaintiff**Amount:** \$5,835,000**State:** Illinois**Venue:** Cook County**Court:** Cook County Circuit Court, IL**Injury Type(s):**

- *other* - infection; loss of services; loss of consortium; compartment syndrome; fasciectomy/fasciotomy
- *epidermis* - numbness
- *foot/heel* - foot drop (drop foot); drop foot
- *arterial/vascular* - pseudoaneurysm
- *mental/psychological* - emotional distress
- *paralysis/quadriplegia* - paralysis

Case Type:

- *Medical Malpractice* - Delayed Treatment; Failure to Detect; Failure to Diagnose

Case Name: Celeste Trevino and Ignacio Trevino v. Mitchell Sheinkop, M.D., Michael Lee, M.D., Midwest Orthopaedics at Rush, and Neurologic Orthopedic Institute of Chicago, No. 09-L-010604**Date:** January 22, 2015**Plaintiff(s):**

- Celeste Trevino (Female, 67 Years)
- Ignacio Trevino (Male)

Plaintiff Attorney(s):

- David A. Axelrod; David A. Axelrod & Associates, P.C.; Schaumburg IL for Celeste Trevino, Ignacio Trevino
- Jason M. Kleinman; David A. Axelrod & Associates, P.C.; Chicago IL for Celeste Trevino, Ignacio Trevino

Plaintiff Expert(s):

- Farah N. Khan M.D.; Internal Medicine; Chicago, IL called by: David A. Axelrod, Jason M. Kleinman
- Preston Flanagan M.D.; Vascular Surgery; Orange, CA called by: David A. Axelrod, Jason M. Kleinman
- Raymond M. Vance M.D.; Orthopedic Surgery; San Diego, CA called by: David A. Axelrod, Jason M. Kleinman

Defendant(s):

- Michael Lee, M.D.
- Mitchell Sheinkop, M.D.
- Midwest Orthopaedics at Rush
- Neurologic Orthopedic Institute of Chicago

Defense Attorney(s):

- Brendan A. O'Brien; Hinshaw & Culbertson LLP; Chicago, IL for Neurologic Orthopedic Institute of Chicago
- Fuad Sulayman; Kamensky Rubinstein Hochman & Delott, LLP; Chicago, IL for Michael Lee, M.D.
- Mark C. Fedota; Fedota Childers, PC; Chicago, IL for Mitchell Sheinkop, M.D.
- Robert W. Smyth Jr.; Donohue Brown Mathewson & Smyth LLC; Chicago, IL for Michael Lee, M.D., Midwest Orthopaedics at Rush

Defendant Expert(s):

- Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: for Fuad Sulayman, Robert W. Smyth Jr.
- Richard S. Sherman M.D.; Orthopedic Surgery; Bannockburn, IL called by: for Mark C. Fedota
- Bernadette Aulivola M.D.; Vascular Surgery; Chicago, IL called by: for Fuad Sulayman, Robert W. Smyth Jr.

Insurers:

- Illinois Guarantee Fund
- uninsured
- ISMIE

Facts:

On September 11, 2007, plaintiff Celeste Trevino, 67, a homemaker, underwent a total knee replacement to her right knee, performed by Dr. Mitchell Sheinkop at the Neurologic and Orthopedic Institute of Chicago (NOIC). Two days after the surgery, on September 13, she started to experience signs and symptoms of a neurovascular injury, including the inability to move her right toes, the inability to move her right ankle and numbness in the ankle. These signs, in addition to other symptoms such as anemia and edema, continued until Trevino's discharge on September 15.

Sheinkop followed up with Trevino on September 13, in response to what was later determined to be the signs and symptoms of an injury to the popliteal artery. In the immediate days until her discharge, Sheinkop did not diagnose Trevino as having sustained a popliteal pseudoaneurysm, which led to a permanent nerve injury and compartment syndrome.

Trevino, along with her husband Ignacio, sued Sheinkop and Neurologic and Orthopedic Institute of Chicago, as well as Michael Lee, M.D., another doctor who was the on-call physician at NOIC on September 14, and Midwest Orthopaedics at Rush. The plaintiffs alleged medical malpractice on the part of those sued. Other individuals were named as defendants in the case. but were dismissed in the litigation's discovery phase.

According to the plaintiff, when Sheinkop performed the procedure, a small laceration/cut occurred in the popliteal artery resulting in the pseudoaneurysm. Blood then leaked in Trevino's right calf. Allegedly, Sheinkop failed to recognize and respond to the signs and symptoms of a popliteal injury as shown by Trevino, which caused her condition to worsen. The plaintiff also alleged that Lee attended to Trevino on September 14 to "assess patient's swelling and leg pain," and made no note in her chart or took any action to address the condition. According to the plaintiff's counsel, had either Sheinkop or Lee recognized and responded to Trevino's condition, then testing could have been done to confirm that she was experiencing a popliteal pseudoaneurysm, and immediate vascular surgery could have been performed to correct the condition before permanent damage had taken place.

The plaintiff's expert orthopedic surgeon opined that pseudoaneurysm was in existence while at the NOIC, and should have been diagnosed. According to the expert, Sheinkop failed to respond to and diagnose the condition, which caused the injuries sustained by Trevino.

The plaintiff's expert vascular surgeon opined that an ultrasound should have been performed to demonstrate the injuries, and had the proper treatment been performed, Trevino would not have suffered any injuries. The plaintiff's internal medicine expert opined with regards to Lee, contending that he was responsible for a breach of the standard of care.

Prior to the conclusion of the case, Midwest Orthopaedics at Rush settled with the plaintiff for \$1 million. NOIC also settled with the plaintiff for \$40,000 after being voluntarily dismissed, to preclude the possibility of any future involvement in legal actions related to this issue. Sheinkop and Lee both proceeded to trial.

Defense counsel for Sheinkop and Lee disputed the allegations made by the plaintiff, contending that Trevino's pseudoaneurysm did not form until after she was discharged from NOIC. This contention was corroborated by testimony from the defense's expert orthopedic surgeon. Therefore, the pseudoaneurysm was not in their control. Even if the pseudoaneurysm had developed at NOIC, it wasn't diagnosable under their care.

The defense's expert vascular surgeon opined that the pseudoaneurysm was not present when Trevino arrived at NOIC, based on another test which had been performed immediately upon her arrival.

Lee contended that, as an internal medicine doctor, he was not responsible to respond to a neurovascular injury. Lee alleged that it was Sheinkop who would be responsible, if any of those named in the suit was responsible. According to testimony from the defense's internal medicine expert, nothing in Lee's conduct when attending to Trevino violated the standard of care.

Injury:

On September 15, 2007 Trevino was discharged to the Rehabilitation Institute of Chicago at Alexian Brothers Medical Center, in Elk Grove Village, Ill. Upon her arrival, she was diagnosed as having suffered a severe post-surgical neurovascular injury to her right leg. The next day, she underwent a bypass surgery to address the pseudoaneurysm, as well as a two-compartment fasciotomy. Even after the surgery, she developed compartment syndrome in her right leg, and on September 20 she underwent a four-compartment fasciotomy procedure to release pressure, as well as remove infected tissue. Trevino remained hospitalized at Alexian Brothers until January 28, 2008. She left the hospital with permanent dropfoot, paralysis of her ankle and toes, and permanent foot numbness.

Plaintiff's counsel asked the jury for a recovery for Trevino's medical expenses, pain and suffering, loss of normal life, emotional distress, and disfigurement. A recovery for Ignacio Trevino's loss of consortium claim was also sought, including recoveries for the loss of reasonable value of services, and for reasonable value of society, companionship and sexual relationship.

The defense focused on the issues of liability - contending that the conduct of the doctors was not the cause of the plaintiff's injuries.

Result:

The jury rendered a verdict, finding in favor of the plaintiffs and against both defendants Sheinkop and Lee.

Celeste Trevino was awarded \$5,335,000, while Ignacio Trevino was awarded \$500,000.

Celeste Trevino

\$1,250,000 Personal Injury: pain and suffering

\$1,500,000 Personal Injury: loss of a normal life

\$1,250,000 Personal Injury: emotional distress

\$500,000 Personal Injury: disfigurement

\$835,000 Personal Injury: medical expenses

Ignacio Trevino

\$250,000 Personal Injury: reasonable value of services

\$250,000 Personal Injury: reasonable value of society, companionship, and sexual relationship

Trial Information:**Judge:**

Edward S. Harmening

Demand: \$1 million (for Lee)

Offer: none

Trial Length: 15 days

**Trial
Deliberations:** 2.66 hours

**Jury
Composition:** 4 male, 8 female

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel and counsel for the Neurologic Orthopedic Institute of Chicago. Counsel for Sheinkop and counsel for Lee did not respond to the reporter's phone calls.

Writer Kirk Maltais

Patient who died of cardiac ischemia never had stress test

Type: Verdict-Plaintiff

Amount: \$5,422,591

Actual Award: \$2,711,295

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *other* - death

Case Type:

- *Medical Malpractice* - Wrongful Life

Case Name: Joanne Tracy, independent administrator of the estate of Scott Tracy deceased v. Lee Freund D.O., and Midwest Physician Group, Ltd., No. 02L-11583

Date: September 30, 2005

Plaintiff(s):

- Estate of Scott Tracy (Male, 36 Years)

Plaintiff Attorney(s):

- Robert J. Napleton; Motherway & Napleton; Chicago IL for Estate of Scott Tracy

Plaintiff Expert(s):

- David Kuo D.O.; Internal Medicine; Northbrook, IL called by: Robert J. Napleton
- Howard Lewin M.D.; Cardiology; Los Angeles, CA called by: Robert J. Napleton

Defendant(s):

- Lee Freund, D.O.
- Midwest Physician Group, Ltd.

**Defense
Attorney(s):**

- Michael R. Slovis; Cunningham, Meyer & Vedrine; Chicago, IL for Lee Freund, D.O., Midwest Physician Group, Ltd.
- Marni Slavick; Cunningham, Meyer & Vedrine; Chicago, IL for Lee Freund, D.O., Midwest Physician Group, Ltd.

**Defendant
Expert(s):**

- Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: for Michael R. Slovis, Marni Slavick
- Vincent Bufalino M.D.; Heart Diseases; Chicago, IL called by: for Michael R. Slovis, Marni Slavick

Insurers:

- ISMIE

Facts:

On May 6, 2002, plaintiff's decedent, Scott Tracy, a printing ink salesman who died at age 36, was seen by physician Lee Freund, D.O., of the Midwest Physician Group Ltd., a medical office in Crestwood.

Because of Scott's recent history of chest pain radiating down his left arm, Freund ordered a stress test for possible coronary artery disease that he told Scott to schedule within three days.

Scott never had the stress test and, on May 23, he died of ischemic heart disease. An autopsy revealed a lack of sufficient blood supply to his heart muscle due to 99% blockage of his right coronary artery.

Tracy's estate sued Midwest Physician Group and Freund for medical malpractice and vicarious liability, claiming Freund failed to appreciate the time urgency of Scott's condition, and should have personally scheduled the test within two of three days of the May 6 visit.

Counsel for the estate argued that had Freund ordered the test to be done STAT, the results would have been abnormal and an angiogram or angioplasty would have ensued, saving Scott's life.

The estate also argued that Freund failed to control Scott's hypertension, which is necessary for a patient ordered to undergo a stress test.

The defense argued that the only cause of Scott's death was his inability to follow medical advice on numerous occasions.

Defense asserted that on April 28, 2002, Scott disobeyed Palos Hospital's emergency room staff instructions when he left the hospital's care before doctors could administer testing to diagnose the etiology of his chest pains.

Scott was also advised by the Palos Hospital staff to see a cardiologist immediately. The defense asserted that Scott instead sought treatment from Dr. Freund, a physician, six days later on May 6, 2002.

Most significantly, the defense asserted that he never scheduled the stress test as ordered to do so.

In addition, the defense maintained that, for other reasons, Tracy bears a lot of the responsibility for his death. His lifestyle was unhealthy; he was overweight and smoked cigarettes heavily. Other risk factors for coronary disease included tobacco use, and a family history of heart attacks.

Tracy's widow, Joanne, disputed the defense assertion that Scott never scheduled the stress test. She testified that he scheduled one for May 21, but had to cancel it following an episode of chest pains because of hypertension.

Tracy also testified that her husband left Palos Hospital care when he did not because he was being uncooperative, but because he was uncertain about his health insurance coverage.

Injury: The estate, consisting of Tracy's wife and six children, ages 6 to 17, sought a total of \$16,622,591 for wrongful death damages; including \$14 million for loss of society and household services, and \$2,622,691 for lost future earnings, a projection based in part on the theory that Scott would have worked 29 more years (until the age of 67) at a salary of around \$73,000.

The defense disputed the lost-future-earnings amount, arguing that part of the projected salary was based on speculative commissions that were rarely achieved by salesmen in Scott's company. The defense also argued that Scott worked in a high-turnover field, and that his specific department had actually been eliminated two years after his death.

Result: The jury found Midwest Physician Group 50% liable for wrongful death, and Tracy 50% comparatively at fault.

The estate was awarded \$5,422,591 reduced by 50% contributory negligence to \$2,711,295.

Included in the award was \$2,622,591 for loss of earnings and household services, and \$2.8 million for loss of society for the family members.

Each defendant has a \$1 million policy limit with ISMIE.

Trial Information:

Judge: John Morrisey

Demand: \$2 million

Offer: \$0

Trial Length: 2 weeks

Post Trial: Defense appeals are pending

Writer Andrew Ragsly

Nurse's alleged failure to stop patient's bleeding led to stroke

Type: Verdict-Plaintiff

Amount: \$3,118,784

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *brain* - stroke; brain damage
- *other* - death
- *arterial/vascular* - blood loss
- *paralysis/quadruplegia* - paralysis

Case Type:

- *Medical Malpractice* - Nurse; Hospital; Negligent Treatment
- *Wrongful Death* - Survival Damages

Case Name: Anneleashen Fuller, special administrator to the Estate of Lillie Teague v. Holy Cross Hospital, Rozelle Aguilera, R.N., Mohamed Dahodwalia, M.D., Nancy J. Field, D.O., Selvakumar Kunchithapatham and Darlene McNicholas, R.N., No. 09-L-004045

Date: November 02, 2012

Plaintiff(s):

- Estate of Lillie Teague (Female, 74 Years)

Plaintiff Attorney(s):

- Robert B. Patterson; Law Offices of Robert B. Patterson, Ltd.; Chicago IL for Estate of Lillie Teague
- John F. Hedrich; Law Offices of Robert B. Patterson, Ltd.; Chicago IL for Estate of Lillie Teague

Plaintiff Expert (s):

- Erika Schwelnus R.N.; Nursing; Chicago, IL called by: Robert B. Patterson, John F. Hedrich
- Nancy N. Futrell M.D.; Neurology; Salt Lake City, UT called by: Robert B. Patterson, John F. Hedrich

Defendant(s):

- Holy Cross Hospital
- Nancy J. Field, D.O.
- Rozelle Aguilera, R.N.
- Darlene McNicholas, R.N.
- Mohamed Dahodwalia, M.D.
- Selvakumar Kunchithapatham, M.D.

**Defense
Attorney(s):**

- Eric P. Schoonveld; Hall, Prangle & Schoonveld; Chicago, IL for Rozelle Aguilera, R.N., Holy Cross Hospital
- None reported for Darlene McNicholas, R.N.
- Dawn E. Ehrenberg; McKenna Storer; Chicago, IL for Selvakumar Kunchithapatham, M.D.
- Robert H. Summers Jr.; Cassidy Schade LLP; Chicago, IL for Nancy J. Field, D.O.
- Kimberly M. Hume; Cassidy Schade LLP; Chicago, IL for Nancy J. Field, D.O.
- Matthew McElligott; Hall, Prangle & Schoonveld; Chicago, IL for Rozelle Aguilera, R.N., Holy Cross Hospital
- Terrence J. Madden; Bryce Downey & Lenkov, LLC; Chicago, IL for Mohamed Dahodwalia, M.D.

**Defendant
Expert(s):**

- Daniel Hier M.D.; Neurology; Chicago, IL called by: for Eric P. Schoonveld
- Marijo Letizia Ph.D; Nursing; Elmhurst, IL called by: for Eric P. Schoonveld
- Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: for Eric P. Schoonveld

Insurers:

- Chicago Hospital Risk Pooling Program

Facts:

On April 10, 2007, plaintiff's decedent Lillie Teague, 74, a retiree, was admitted to Holy Cross Hospital in Chicago with complaints of blurry vision, nausea, hypertension and no pulse in her right foot. On the morning of April 13, Teague underwent a left heart catheterization and angiogram, which was performed by Dr. Mohamed Dahodwalia. That afternoon, Dr. Selvakumar Kunchithapatham was asked to perform a femoral angiogram. The procedure was undertaken to examine the blood flow in Teague's body, specifically to address her lack of a pulse in her right foot. The procedure required the placement of a catheter in the femoral artery, near the groin. Allegedly, Teague bled from the puncture wound from the catheter, losing an alleged 30 to 35 percent of her blood. The bleed was allegedly discovered at 5:15 p.m. At approximately 8 p.m., Teague sustained a right-middle cerebral artery stroke. After being paralyzed and brain-damaged for months, she died on Sept. 18, 2007.

Teague's estate sued the doctors and nurses involved with Teague's care that day: Kunchithapatham; Dahodwalia; Dr. Nancy Field, the house physician who responded to the bleeding episode; nurse Rozelle Aguilera, who was attending to Teague when the bleed occurred; and nurse Darlene McNicholas. Also sued was Holy Cross Hospital, for allegedly violating the standard of care in their treatment of Teague.

According to the estate's counsel, the efforts of the nurse attending to Teague, Aguilera, failed to stop Teague's bleeding from the puncture wound from the catheter for approximately 20 to 30 minutes. This failure to stop Teague from losing a significant amount of blood was allegedly the reason that Teague sustained a serious stroke that evening.

McNicholas was non-suited soon after being named as a defendant. Dahodwalia was voluntarily dismissed by the estate's counsel on June 29, 2010. Kunchithapatham was voluntarily dismissed by the estate's counsel during motions in limine. Field was dismissed during trial on a directed verdict, leaving Aguilera and Holy Cross Hospital as the only defendants left in trial.

Defense counsel contended that Teague's blood loss was not the cause of her stroke, but rather her other co-morbid conditions, such as atrial fibrillation.

Injury:

The estate's counsel asked the jury for a total recovery ranging from \$5.3 million to \$8.8 million for the wrongful death of Teague. Teague was survived by seven children. Also sought were the \$618,784 in medical bills Teague had accrued until the time of her death.

Result:

The jury rendered a verdict in favor of the estate, determining that damages totaled \$3,118,784. Following the verdict, the parties agreed to a confidential settlement.

Estate of Lillie Teague

\$618,784 Personal Injury: Past Medical Cost

\$1,250,000 Personal Injury: Past Pain And Suffering

\$250,000 Personal Injury: disability

\$1,000,000 Wrongful Death: wrongful death

Trial Information:

Judge: Elizabeth M. Budzinski

Demand: \$2,750,000

Offer: None

Trial Length: 10 days

Editor's Comment: This report is based on information that was provided by plaintiff's counsel and counsel for Kunchithapatham, Field and Dahodwalia. Defense counsel for Holy Cross Hospital and Aguilera did not respond to the reporter's phone calls.

Writer Kirk Maltais

Man claimed pooled blood in rectum deserved a follow-up

Type: Settlement

Amount: \$1,450,000

State: Illinois

Venue: Kane County

Court: Kane County Circuit Court, IL

Injury Type(s): • *cancer*

Case Type: • *Medical Malpractice - Cancer Diagnosis; Failure to Diagnose*

Case Name: Gary and Karen Hart v. Brian P. Daniel, M.D. and Sterling Rock Falls Clinic d/b/a The Dixon Clinic, No. 02 L 12

Date: July 23, 2003

Plaintiff(s): • Gary Hart (Male, 37 Years)
• Karen Hart (Female, 34 Years)

Plaintiff Attorney(s): • Michael W. Clancy; Clancy Law Offices; St. Charles IL for Gary Hart, Karen Hart
• Wendell W. Clancy; Clancy Law Offices; St. Charles IL for Gary Hart, Karen Hart

Plaintiff Expert (s): • Frank Konicek M.D.; Gastroenterology; Chicago, IL called by: Michael W. Clancy, Wendell W. Clancy
• Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: Michael W. Clancy, Wendell W. Clancy
• Raymond Smith M.D.; Oncology; St. Louis, MO called by: Michael W. Clancy, Wendell W. Clancy

Defendant(s): • Brian Daniel
• Sterling Rock Falls Clinic

- Defense Attorney(s):**
- Gregory Snyder; Hinshaw & Culbertson; Crystal Lake, IL for Brian Daniel, Sterling Rock Falls Clinic
- Defendant Expert(s):**
- David Chua M.D.; Gastroenterology; Oak Brook Terrace, IL called by: for Gregory Snyder
 - Jacob Bitran; Oncology; Park Ridge, IL called by: for Gregory Snyder
 - Charles Dillon M.D.; Internal Medicine; Chicago, IL called by: for Gregory Snyder
- Insurers:**
- ISMIS

Facts: Plaintiff Gary Hart, a 37-year-old Lee County, Ill., deputy sheriff, went to Brian Daniel, his primary care doctor, complaining of blood in his stool. Daniel performed an examination and recorded the results in Hart's records as normal, although he told Hart that he found "pooled blood" in his rectum. Nevertheless, Daniel assured Hart that there was nothing to worry about. Although Daniel's notes suggested that he wanted to follow up with Hart in three months, Hart was not told this and no follow-up was scheduled. After approximately eight months, the bleeding worsened, and Daniel referred Hart to a gastroenterologist, who discovered that Hart had rectal cancer which had metastasized to his liver. His prognosis was grim.

Hart and his wife sued Daniel and his clinic, Sterling Rock Falls Clinic d/b/a The Dixon Clinic, Dixon, Ill., for medical malpractice, alleging failure to diagnose. In particular, the plaintiffs claimed that Hart's complaints of rectal bleeding warranted both a more complete evaluation and a follow-up.

The defendants contended that Daniel's evaluation met with the standard of care in that it was reasonable for him to believe that the pooled blood in his rectum was benign, and that it was up to Hart to come back if symptoms persisted.

Injury: The plaintiffs claimed that the eight-month delay in discovery of Hart's rectal cancer allowed it to metastasize to his liver and proliferate there to such an extent that resection was impossible. All experts agreed that Hart's five-year chance of survival was 0%. With resectable metastatic disease in his liver, five-year survival was 30-40%. If his cancer had been discovered before evidence of metastatic disease, the plaintiffs claimed, his chance of surviving five years jumped to around 70%. Hart is married and has two small children. He is currently still fighting the cancer while working.

Hart's wife claimed loss of consortium.

Result: On the eve of trial, the parties settled for \$1.45 million.

Trial Information:

Judge: David T. Fritz

Editor's Defense counsel did not contribute to this report.

Comment:

Writer Kenneth Horton

Delay in appendicitis diagnosis led to complications: patient

Type: Verdict-Plaintiff

Amount: \$855,193

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *other* - hernia
- *abdomen* - appendicitis
- *surgeries/treatment* - colostomy
- *gastrointestinal/digestive* - diarrhea; bowel/colon/intestine, perforation

Case Type:

- *Medical Malpractice* - Delayed Diagnosis; Delayed Treatment; Failure to Diagnose; Negligent Treatment

Case Name: Karol Stawarz and Elzbieta Stawarz v. Victor Forys, M.D. and Forys-Birn & Associates P.C., d/b/a Central Medical Clinic of Chicago, No. 10-L-010720

Date: November 19, 2013

Plaintiff(s):

- Karol Stawarz (Male, 69 Years)
- Elzbieta Stawarz (Female)

Plaintiff Attorney(s):

- Bradley M. Cosgrove; Clifford Law Offices; Chicago IL for Karol Stawarz, Elzbieta Stawarz
- Magdalena Dworak-Mathews; Clifford Law Offices; Chicago IL for Karol Stawarz, Elzbieta Stawarz

Plaintiff Expert (s):

- Finley W. Brown Jr., M.D.; Family Medicine; Chicago, IL called by: Bradley M. Cosgrove, Magdalena Dworak-Mathews
- Thomas Esposito M.D.; Trauma; Maywood, IL called by: Bradley M. Cosgrove, Magdalena Dworak-Mathews
- Lawrence Hollander M.D.; General Surgery; Mount Vernon, IL called by: Bradley M. Cosgrove, Magdalena Dworak-Mathews
- Slawomir J. Marecik M.D.; Colon & Rectal Surgery; Park Ridge, IL called by: Bradley M. Cosgrove, Magdalena Dworak-Mathews

Defendant(s):

- Victor Forys, M.D.
- Forys-Birn & Associates P.C.

**Defense
Attorney(s):**

- Belle L. Katubig; Pretzel & Stouffer, Chartered; Chicago, IL for Victor Forys, M.D., Forys-Birn & Associates P.C.
- Donald J. O'Meara Jr.; Pretzel & Stouffer, Chartered; Chicago, IL for Victor Forys, M.D., Forys-Birn & Associates P.C.

**Defendant
Expert(s):**

- Josphe Vitello M.D.; General Surgery; Chicago, IL called by: for Belle L. Katubig, Donald J. O'Meara Jr.
- Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: for Belle L. Katubig, Donald J. O'Meara Jr.

Insurers:

- Valiant Insurance Co.

Facts:

On March 5, 2010, plaintiff Karol Stawarz, a retired 69 year old, presented to the office of his primary care physician, Dr. Victor Forys, with urgent complaints of lower abdominal pain. Forys charted Stawarz's sudden onset of abdominal pain at 5 a.m. He noted that Stawarz complained of sharp pain; constant, diffuse, 8/10 pain; loose stool; and nausea. As a result, Forys diagnosed Stawarz as having gastroenteritis, ordered a complete blood count, and prescribed Toradol and Tylenol. He then discharged Stawarz with the instructions to return for a follow-up visit within 24 hours or to go directly to a hospital emergency room if symptoms worsened.

The next day, Stawarz presented to the emergency room at Loyola Hospital with complaints of severe abdominal pain, with greater pain noted as being particularly in the right lower quadrant. An exam performed at the hospital revealed right lower quadrant tenderness, indicative of an infectious process. A CT scan showed free air in the abdomen, which confirmed a diagnosis of acute appendicitis with perforation. Thus, an emergency open appendectomy was performed, during which the surgeon noted significant necrosis of the appendix. During the procedure, doctors had difficulty removing the appendix due to inflammation, and the appendix avulsed during removal.

Stawarz sued Forys and Forys' practice, Forys-Birn & Associates P.C., which was doing business as Central Medical Clinic of Chicago. Stawarz alleged that Forys failed to diagnose his appendicitis, in violation of the standard of care, which allowed his condition to deteriorate until it was finally discovered in the hospital. He also alleged that the failures of Forys and his medical office constituted medical malpractice.

Stawarz's counsel contended that Forys failed to order Stawarz to go directly to a hospital, but instead allowed 24 hours to elapse before presenting to a hospital. Counsel contended that this allowed time for the appendix to rupture and that this was the proximate cause for the eventual complications Stawarz sustained after the appendectomy.

Over the objections of defense counsel, Stawarz was allowed to testify about a phone conversation he had with Forys two weeks after the appendectomy, during which he allegedly told Forys about his post-surgical complications, to which Forys allegedly replied, "Go to the emergency room before we make another mistake."

Defense counsel contended that Stawarz's presentation to Forys was not consistent with appendicitis, but was more consistent with gastroenteritis. Counsel contended that this was particularly true in regard to the absence of focal and rebound tenderness. Thus, defense counsel argued that the standard of care did not require Forys to order more tests and that the 24-hour delay was not the proximate cause of any of Stawarz's complications.

Injury:

Stawarz was diagnosed with acute appendicitis with perforation at Loyola Hospital. He subsequently underwent an emergency open appendectomy, during which the surgeon noted significant necrosis of the appendix. During the procedure, doctors had difficulty removing the appendix due to inflammation, and the appendix avulsed during removal.

After the surgery, Stawarz developed a post-operative fistula, requiring him to wear a colostomy bag for five months. When the fistula failed to resolve, he underwent a right hemicolectomy at Lutheran General Hospital, in Park Ridge, in September 2011. During the procedure, an excision of the ileocecal valve was performed, removing approximately 23 centimeters of the ascending colon.

Stawarz claimed he now suffers from chronic diarrhea and occasional bowel incontinence, requiring him to wear an adult diaper. He also claimed he suffers from a small abdominal hernia, which restricts his activity.

Thus, plaintiff's counsel asked the jury to award Stawarz \$2.43 million, including \$165,193 for medical expenses and unspecified amounts of damages for Stawarz's past and future pain and suffering, past and future emotional distress, and past and future disability. Also included in the total amount were recoveries for the derivative claims brought by Stawarz's wife, Elzbieta Stawarz, who sought recovery of damages for her past and future loss of consortium.

Result:

The jury found in favor of Mr. and Mrs. Stawarz. It determined that damages of Mr. and Mrs. Stawarz totaled \$885,193, including \$660,193 for Mr. Stawarz, and \$225,000 to Mrs. Stawarz.

Trial Information:

Judge: Gregory J. Wojkowski

Demand: \$1 million

Offer: None

Editor's Comment: This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.

Writer: Kirk Maltais

Estate: Failure to diagnose aortic dissection led to death

Type: Verdict-Mixed

Amount: \$100,000

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *other* - death; loss of society
- *cardiac* - cardiopulmonary/respiratory arrest

Case Type:

- *Medical Malpractice* - Misdiagnosis; Failure to Test

Case Name: Maria Gomez, as administrator for the Estate of Virginia Davila v. Cesar A. Carranza, M.D., Jose B. Delfin, M.D. and Norwegian American Hospital, No. 08-L-006159

Date: April 30, 2012

Plaintiff(s):

- Maria Gomez (Female)
- Estate of Virginia Davila (Female, 67 Years)

Plaintiff Attorney(s):

- Clark M. Raymond; Raymond & Raymond, Ltd.; Schaumburg IL for Maria Gomez, Estate of Virginia Davila
- Joan Stohl; Raymond & Raymond, Ltd.; Schaumburg IL for Maria Gomez, Estate of Virginia Davila

Plaintiff Expert (s):

- Dino Rumoro M.D.; Emergency Medicine; Chicago, IL called by: Clark M. Raymond, Joan Stohl
- Sean K. Kesterson M.D.; Internal Medicine; Ann Arbor, MI called by: Clark M. Raymond, Joan Stohl
- Robert J. Anderson M.D.; Cardiothoracic Surgery; Jupiter, FL called by: Clark M. Raymond, Joan Stohl
- Robert A. Halvorsen M.D.; Radiology; Richmond, VA called by: Clark M. Raymond, Joan Stohl

Defendant(s):

- Jose B. Delfin, M.D.
- Cesar A. Carranza, M.D.
- Norwegian American Hospital

**Defense
Attorney(s):**

- James M. Lydon; Hinshaw & Culberson; Chicago, IL for Cesar A. Carranza, M.D., Norwegian American Hospital
- Thomas O'Carroll; Hinshaw & Culbertson, Ltd.; Chicago, IL for Cesar A. Carranza, M.D., Norwegian American Hospital
- Mauri A. Thomas; Fedota Childers, PC; Chicago, IL for Jose B. Delfin, M.D.
- Jennifer L. Knobloch; Fedota Childers, PC; Chicago, IL for Jose B. Delfin, M.D.

**Defendant
Expert(s):**

- Donald Steiner M.D.; Emergency Medicine; Downers Grove, IL called by: for James M. Lydon
- Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: for Mauri A. Thomas, Jennifer L. Knobloch

Facts:

On June 10, 2006, plaintiff's decedent Virginia Davila, 67, claimed to have woken up in pain. At approximately 8:30 a.m. she arrived at the emergency room at Norwegian American Hospital in Chicago reporting severe pain in her back, difficulty moving her right leg, elevated blood pressure, and mild tachycardia. She was examined by Dr. Cesar Carranza, who concluded that Davila was suffering from degenerative disc disease and arthritis. He transferred her to St. Mary of Nazareth Hospital to see her longtime family physician, Dr. Jose Delfin. Early in the morning the next day, Davila went into cardiopulmonary arrest and died. An autopsy showed that Davila had an undiagnosed aortic dissection throughout the entirety of the aorta, which caused pericardial effusion and cardiac tamponade.

Maria Gomez, Davila's one adult daughter and administrator of her estate, sued both hospitals, Carranza, Delfin and other physicians present at the time for medical malpractice. All of the defendants were voluntarily dismissed from the case except for Delfin, Carranza and Norwegian American Hospital. Plaintiff's counsel claimed that Carranza breached the standard of medical care by failing to order an abdominal CT scan, especially since he initially had the aortic condition in his differential diagnosis. They also alleged that Delfin failed to diagnose the dissection, thus denying Davila the chance for effective treatment for her ailments.

According to plaintiff's counsel, both physicians treated Davila for degenerative diseases, Carranza prescribing narcotic medications while Delfin ordered a neurological consultation for her back and leg symptoms. After the consultation, an MRI for her lumbar spine was ordered to be performed the following day. In diagnosing Davila with musculoskeletal problems, claimed plaintiff's counsel, the physicians failed to realize that Davila's symptoms were consistent with a "Type B" aortic dissection, and allowed for the cardiopulmonary arrest that resulted in her death.

Counsel for Carranza and Norwegian contended that Davila's symptoms were odd for aortic dissection, so for Carranza not to order a test to specifically rule out aortic dissection did not breach the standards of medical care. Delfin's counsel alleged that Davila's vital signs were stable when she arrived at St. Mary's, and he had no reason to believe that she had anything but a musculoskeletal problem, given the previous diagnoses of Carranza as well as Davila's own previous history of lower back issues.

Injury:

Davila died from cardiopulmonary arrest.

Plaintiff's counsel asked the jury for \$2.1 million in wrongful death damages, including loss of society. Medical bills were not submitted.

Result:

The jury found that Carranza and Norwegian American Hospital were liable in the death of Davila, and determined that damages totaled \$100,000 for loss of society. The jury found that Delfin was not liable.

Maria Gomez

\$100,000 Wrongful Death: Past Loss Of Society Companionship

Trial Information:

Judge: James E. Sullivan

Demand: \$1 million

Offer: \$500,000

Trial Length: 13 days

**Trial
Deliberations:** 4 hours

**Editor's
Comment:** This report includes information that was gleaned from an article that was published by the Cook County Jury Verdict Reporter and information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.

Writer Kirk Maltais

No reason to admit patient who was improving, defense argued

Type: Verdict-Defendant

Amount: \$0

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *brain* - coma
- *other* - death; sepsis; unconsciousness
- *pulmonary/respiratory* - pneumonia

Case Type:

- *Medical Malpractice* - Failure to Admit; Delayed Treatment; Failure to Diagnose

Case Name: Almantas Paulavicius, special administrator for the Estate of Danute Paulaviciene v. Arun Kumar, M.D., Arun Kumar, M.D., S.C., Edward Vizinas, M.D., and Edmund Vizinas, M.D., S.C., No. 10-L-001517

Date: August 21, 2013

Plaintiff(s):

- Estate of Danute Paulaviciene (Female, 57 Years)

Plaintiff Attorney(s):

- John M. Power; Cogan & Power, P.C.; Chicago IL for Estate of Danute Paulaviciene
- Patti Tuttle; Cogan & Power, P.C.; Chicago IL for Estate of Danute Paulaviciene

Plaintiff Expert(s):

- Robert B. Schoene M.D.; Pulmonology; Bozeman, MT called by: John M. Power, Patti Tuttle
- Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: John M. Power, Patti Tuttle

Defendant(s):

- Arun Kumar, M.D.
- Edmund Vizinas, M.D.
- Arun Kumar, M.D., S.C.
- Edmund Vizinas, M.D., S.C.

**Defense
Attorney(s):**

- Dawn E. Ehrenberg; McKenna Storer; Chicago, IL for Edmund Vizinas, M.D., Edmund Vizinas, M.D., S.C.
- Mary C. O'Connor; Foran Glennon Palandech Ponzi & Rudloff PC; Chicago, IL for Arun Kumar, M.D., Arun Kumar, M.D., S.C.
- Julie A. Ramson; McKenna Storer; Chicago, IL for Edmund Vizinas, M.D., Edmund Vizinas, M.D., S.C.

**Defendant
Expert(s):**

- Steven Eisenstein M.D.; Internal Medicine; Northbrook, IL called by: for Dawn E. Ehrenberg, Julie A. Ramson
- Patrick Fahey M.D.; Pulmonary/Respiratory Diseases; Chicago, IL called by: for Dawn E. Ehrenberg, Julie A. Ramson

Insurers:

- Professional Solutions

Facts:

On Dec. 27, 2008, plaintiff's decedent Danute Paulaviciene, 57, owner of a bed and breakfast, presented to Dr. Edmund Vizinas in Chicago with complaints of coughing and shortness of breath. In an examination, Paulaviciene was found to have a 100.3 degree fever, with an oxygen saturation level of 94 percent. Vizinas ordered a chest X-ray and blood work. The X-ray showed extensive infiltrate in her lungs, but the white blood cell count was not elevated. Paulaviciene had been complaining of her symptoms for the month of December, having seen Dr. Arun Kumar prior to seeing Vizinas. Kumar had prescribed her a drug to treat her symptoms.

Paulaviciene saw Vizinas again on Dec. 29, appearing to have improved from her initial visit. Vizinas prescribed Avelox, an antibiotic for community-acquired pneumonia. On Dec. 31, Paulaviciene again experienced coughing fits and shortness of breath. By 9:30 p.m. that evening, she developed a 102 degree fever, and was taken to the emergency room at Edward Hospital in Naperville. She was found to have an oxygen saturation level of 82 percent. She was intubated and placed on a ventilator, going into a coma. She never regained consciousness, and died on Jan. 11, 2009.

Paulaviciene's son, Almantas Paulavicius, filed a lawsuit, alleging that Vizinas and Kumar were negligent in their treatment of Paulaviciene's pneumonia. Both doctors' practices were also named in the action. Kumar and his practice were dropped from the case prior to its resolution.

The estate's counsel contended that Paulaviciene's condition suddenly worsened due to a sudden bacterial escalation, overwhelming sepsis that ultimately killed her.

The estate's counsel alleged that on Dec. 29, when Paulaviciene appeared to have improved from the pneumonia, she should have been admitted to a hospital to receive intravenous antibiotics. The estate's medical experts opined that she needed to be admitted to a hospital on that day, and had she received intravenous antibiotics at that point, she would have lived.

Defense counsel contended that Paulaviciene appeared to be recovering from the pneumonia on Dec. 29, and there was no reason for Vizinas to think that she was not improving at that point. According to the defense's internal medicine expert, there would be no reason for Paulaviciene to be admitted to a hospital, because of her appearing to have begun to recover from her pneumonia.

According to testimony from the defense's pulmonary expert, this escalation leading to sepsis was a very rare occurrence, but not unheard of. He also opined that such a development was unpredictable.

Injury:

The estate's counsel asked the jury for \$2.62 million. Included in this was a recovery for the wrongful death of Paulaviciene, as well as a loss of society, for \$2.6 million. This was sought on behalf of Paulaviciene's son and daughter. Also sought was \$2,000 for her funeral bills.

Result:

The jury rendered a defense verdict.

Trial Information:

Judge: Donald J. Suriano

Demand: \$1 million (policy)

Offer: None

Trial Length: 6 days

**Trial
Deliberations:** 1.25 hours

Jury Vote: 12-0

**Jury
Composition:** 4 male, 8 female

**Editor's
Comment:** This report is based on information that was provided by defense counsel. Plaintiff's counsel did not respond to the reporter's phone calls.

Writer Kirk Maltais

Pneumonia diagnosis justified based on symptoms: defense

Type: Verdict-Defendant

Amount: \$0

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *other* - death; conscious pain and suffering
- *arterial/vascular* - embolism
- *pulmonary/respiratory*

Case Type:

- *Wrongful Death* - Survival Damages
- *Medical Malpractice* - Failure to Test; Failure to Diagnose

Case Name: Maria Gonzalez, special administrator to the Estate of Jairo Melchor v. Nana K. Britwum, M.D., Stephen I. Greenstein, D.O., Sherman Hospital, Nooruzabha Ahmed, M.D., Adam T. Cio, M.D., Raj Patel, M.D., St. Alexius Medical Center, No. 08-L-005152

Date: February 06, 2013

Plaintiff(s):

- Estate of Jairo Melchor (Male, 44 Years)

Plaintiff Attorney(s):

- Greg Ignoffo; Law Offices of John G. Kelly, P.C.; Chicago IL for Estate of Jairo Melchor
- John M. Saletta; of counsel to the Law Offices of John G. Kelly, P.C.; Chicago IL for Estate of Jairo Melchor

Defendant(s):

- Raj Patel, M.D.
- Sherman Hospital
- Adam T. Cio, M.D.
- Nana K. Britwum, M.D.
- Nooruzabha Ahmed, M.D.
- St. Alexius Medical Center
- Stephen I. Greenstein, D.O.

**Defense
Attorney(s):**

- Laura G. Postilion; Foran Glennon Palandech Ponzi & Rudloff PC; Chicago, IL for Nana K. Britwum, M.D.
- Vito M. Masciopinto; Lowis & Gellen LLP; Chicago, IL for Sherman Hospital
- Mary C. O'Connor; Foran Glennon Palandech Ponzi & Rudloff PC; Chicago, IL for Nana K. Britwum, M.D.
- David S. Waxman; Arnstein & Lehr LLP; Chicago, IL for Nooruzabha Ahmed, M.D.
- None reported for Stephen I. Greenstein, D.O., Adam T. Cio, M.D., Raj Patel, M.D., St. Alexius Medical Center

**Defendant
Expert(s):**

- Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: for Mary C. O'Connor

Insurers:

- Doctors' Company

Facts:

In September 2007, plaintiff's decedent Jairo Melchor, 44, presented to the emergency room of St. Alexius Medical Center in Hoffman Estates. Melchor arrived at the emergency room with pleuritic chest pain, shortness of breath, hemoptysis, tachycardia, tachypnea, dizziness, diaphoresis, hypoxia, coughing and a large bruise on his calf. Upon being seen by Dr. Nana Britwum, Melchor was diagnosed as having pneumonia, and was admitted to the hospital. Melchor was seen by infectious disease doctor Nooruzabha Ahmed and pulmonologist Stephen Greenstein, who both agreed with the diagnosis of pneumonia. That evening, Melchor experienced an episode of desaturation, and was transferred to the ICU. He was then transferred to Sherman Hospital in Elgin. Twelve hours later, Melchor died. An autopsy revealed evidence of a massive pulmonary embolism, as well as other smaller pulmonary emboli that were approximately three to five days old. No evidence of pneumonia was found.

Melchor's estate sued the parties involved in Melchor's care until his death. Named as defendants were Britwum, Ahmed, Greenstein, and the facilities involved in his care, St. Alexius Medical Center and Sherman Hospital. Also named as defendants were Dr. Adam Cios and Dr. Raj Patel. All of the defendants were dismissed from the case except for Britwum, Greenstein and Sherman Hospital. Greenstein and Sherman Hospital settled with the estate prior to trial, Greenstein for \$1 million and Sherman Hospital for \$70,000.

According to the estate's counsel, the defendants failed to diagnose Melchor's pulmonary emboli. They contended that Britwum should have included a possible pulmonary embolism in the diagnosis, and ordered a CT scan to rule out the possibility of emboli. They contended that a dose of heparin would have saved Melchor's life, and the failure to do so was responsible for his death.

Defense counsel contended that based on the symptoms Melchor presented to the emergency room with, Britwum's diagnosis of pneumonia was the most likely diagnosis to make. This was corroborated by the testimony of the defense's expert internal medicine doctor. Following making the diagnosis of pneumonia, Britwum consulted the opinions of Ahmed and Greenstein to verify the diagnosis. Both specialists verified Britwum's initial diagnosis. Defense counsel also contended that even if heparin had been administered, Melchor's death still may not have been prevented, whether or not the pulmonary embolism had been diagnosed.

Injury: The estate's counsel asked the jury for a recovery of \$14 million for the wrongful death of Melchor as well as for his pain and suffering during the course of his hospitalization. They contended that Melchor was afflicted with pain during his hospitalization, until he died at Sherman Hospital. They sought a recovery in behalf of Melchor's wife and three children, who they contended suffered due to the untimely loss of their husband and father, respectively.

Result: The jury found that Britwum was not liable for Melchor's death.

Trial Information:

Judge: Elizabeth M. Budzinski

Demand: \$12 million (all) \$1 million (Britwum's policy)

Offer: None (for Britwum)

Trial Length: 9 days

**Trial
Deliberations:** 5 hours

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Counsel for Britwum, counsel for Sherman Hospital, and counsel for Ahmed did not respond to the reporter's phone calls.

Writer Kirk Maltais

Doctor's pre-operative care proper, defense contended

Type: Verdict-Defendant

Amount: \$0

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *brain* - stroke
- *other* - death; loss of services
- *arterial/vascular* - embolism

Case Type:

- *Medical Malpractice* - Failure to Consult; Orthopedic Surgery; Prescription and Medication

Case Name: Nancy Swallow, individually, and as special administrator to the Estate of Dennis Swallow, deceased v. Bryan G. Moline, M.D., Rush Oak Park Physicians Group, division of Rush Oak Park Hospital, Inc., Midwest Orthopedics at Rush, and Mitchell B. Sheinkop, M.D., No. 07-L-005672

Date: June 26, 2013

Plaintiff(s):

- Nancy Swallow (Female)
- Estate of Dennis Swallow (Male, 51 Years)

Plaintiff Attorney(s):

- Francis P. Morrissey; Burke Wise Morrissey & Kaveny, LLC; Chicago IL for Estate of Dennis Swallow, Nancy Swallow

Plaintiff Expert (s):

- John H. Fullerton M.D.; Internal Medicine; San Francisco, CA called by: Francis P. Morrissey
- George A. Lopez M.D.; Neurology; Houston, TX called by: Francis P. Morrissey
- George J. Urban M.D.; Neurology; Chicago, IL called by: Francis P. Morrissey

Defendant(s):

- Bryan G. Moline, M.D.
- Mitchell B. Sheinkop, M.D.
- Midwest Orthopedics at Rush
- Rush Oak Park Physicians Group, division of Rush Oak Park Hospital Inc.

**Defense
Attorney(s):**

- Aiju C. Thevatheril; Swanson, Martin & Bell, LLP; Chicago, IL for Bryan G. Moline, M.D., Rush Oak Park Physicians Group, division of Rush Oak Park Hospital Inc.
- Mauri A. Thomas; Fedota Childers, PC; Chicago, IL for Mitchell B. Sheinkop, M.D.
- Robert W. Smyth Jr.; Donohue Brown Mathewson & Smyth LLC; Chicago, IL for Midwest Orthopedics at Rush
- Jennifer E. Dicken; Swanson, Martin & Bell, LLP; Chicago, IL for Bryan G. Moline, M.D., Rush Oak Park Physicians Group, division of Rush Oak Park Hospital Inc.

**Defendant
Expert(s):**

- Sean D. Ruland M.D.; Stroke; Chicago, IL called by: for Aiju C. Thevatheril
- Jeffrey Kopin M.D.; Internal Medicine; Chicago, IL called by: for Aiju C. Thevatheril
- Lakshmi Iyer M.D.; Anesthesiology; Chicago, IL called by: for Aiju C. Thevatheril
- Michael Farhi M.D.; Neurology; Melrose Park, IL called by: for Aiju C. Thevatheril

Insurers:

- Chicago Hospital Risk Pooling Program

Facts:

On May 27, 2005, plaintiffs' decedent Dennis Swallow, 51, a sign installer, presented to the office of Dr. Bryan Moline, who practiced with Rush Oak Park Physicians Group in Oak Park, for pre-operative clearance for an orthopedic hip resurfacing surgery taking place at Rush Oak Park Hospital. According to the plaintiffs, Swallow had suffered a neurological event in 1996. As a result, he had been taking 325 mg of aspirin daily for stroke prophylaxis. Swallow also had a history of severe basilar migraine headaches for which he was receiving treatment. Moline asked Swallow to stop his daily aspirin regimen for seven to 10 days prior to the surgery. Moline cleared Swallow for the operation, and on June 15, 2005, Swallow presented to the hospital for the surgery. The procedure was performed by Dr. Mitchell Sheinkop of Midwest Orthopedics.

The next day, June 16, Swallow suffered a severe embolic stroke. As a result of the stroke, Swallow was left severely disabled, unable to talk or care for himself. He eventually passed away, on Sept. 11, 2009, from a stroke that occurred while he was taking antithrombotic medications.

Nancy Swallow, both individually and on behalf of the estate of her husband, sued Moline and Sheinkop, as well as Rush Oak Park Physicians Group and Midwest Orthopedics. The estate alleged a deviation in the standard of care on the part of the defendants. Sheinkop and Midwest Orthopedics were dismissed from the case prior to the trial.

The estate's counsel alleged that Swallow was a high-risk patient for a stroke similar to the one that he eventually suffered. He alleged that Moline should have taken a proper history when clearing Swallow for the operation. He alleged that Moline should have not cleared Swallow for the operation, and instead should have consulted a neurologist and he should have bridged him with antithrombotic medications before and after the hip surgery. According to counsel, the failure to give Swallow the antithrombotic medication allowed the stroke to occur. These allegations were corroborated by both of the estate's medical experts, who testified that Moline had deviated from the standard of care in his actions.

Defense counsel disputed the estate's allegations, contending that Moline was appropriate in his pre-operative care of Swallow. They contended that there was no need for a neurological consultation or to prescribe antithrombotic medications before or after surgery, because Swallow had undergone five prior orthopedic surgeries, all performed without any bridging therapy. This argument was corroborated by both non-treating medical experts for the defense. The defense also contended that Swallow's stroke was unpredictable and unavoidable, and because he died while taking the antithrombotics, it was feasible that the drugs would not have prevented the stroke in the first place. Both of the defense's retained experts opined that the antithrombotics were the cause of death in 2009.

Injury:

The estate sought a recovery for wrongful death damages, and well as survival damages, for the plaintiff's decedent and his wife, Nancy Swallow, who filed a claim for loss of services. The estate's counsel sought a recovery for Swallow's medical costs of \$150,793.67, pain and suffering damages of \$500,000, and loss of normal life damages of \$2 million. Also sought was \$200,000 in loss of services damages.

Result:

The jury found that neither Moline nor his practice was negligent in the incident in question.

Trial Information:

Judge: James P. Flannery

Demand: \$1.5 million

Offer: None reported

Trial Length: 9 days

**Trial
Deliberations:** 1.5 hours

**Editor's
Comment:** This report is based on information that was provided by plaintiffs' and defense counsel.

Writer Kirk Maltais

Patient claimed he should have been protected from falling

Type: Verdict-Defendant

Amount: \$0

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *head* - fracture, skull
- *brain* - coma; brain damage; subdural hematoma; traumatic brain injury
- *other* - swelling; physical therapy
- *face/nose* - facial laceration
- *mental/psychological* - cognition, impairment

Case Type:

- *Nursing Homes* - Restraints; Medication Management
- *Slips, Trips & Falls* - Falldown
- *Medical Malpractice* - Prescription and Medication

Case Name: Linda Kemp, as Plenary Guard to Ronald Tanner, v. Atrium Health Care Center, Jong L. Jin, M.D. and Prime Medical Associates, LTD., No. 2013-L-008910

Date: September 06, 2017

Plaintiff(s):

- Ronald Tanner (Male, 56 Years)

Plaintiff Attorney(s):

- Craig A. Hoffman; Ruberry, Stalmack, & Garvey, LLC; Chicago IL for Ronald Tanner

Plaintiff Expert(s):

- Frank Kelly M.D.; Internal Medicine; Chicago, IL called by: Craig A. Hoffman

Defendant(s):

- Jong L. Jin
- Atrium Health Care Center
- Prime Medical Associates Ltd.

**Defense
Attorney(s):**

- Mark M. Burden; Donohue Brown Mathewson & Smyth LLC; Chicago, IL for Jong L. Jin, Prime Medical Associates Ltd.
- John C. Marshall; Johnson & Bell, Ltd.; Chicago, IL for Atrium Health Care Center
- Sammi L. Renken; Johnson & Bell; Chicago, IL for Atrium Health Care Center
- Curtiss Schreiber; Donohue Brown Mathewson & Smyth LLC; Chicago, IL for Jong L. Jin, Prime Medical Associates Ltd.

**Defendant
Expert(s):**

- Jeffrey D. Kopin M.D.; Internal Medicine; Chicago, IL called by: for Mark M. Burden, Curtiss Schreiber

Insurers:

- ISMIS Insurance

Facts:

On June 29, 2013, plaintiff Ronald Tanner, 56, a patient at Atrium Health Care Center, a nursing home on Estes Avenue in Chicago, fell while descending a flight of stairs within the facility. Tanner had been at the facility since 2005, and had been receiving treatment for long-standing psychiatric conditions including schizophrenia, as well as a seizure disorder for which he took medications. He was under the care of Dr. Jong L. Jin. Tanner suffered head and facial injuries in the fall, and he was put into a medically induced coma.

Tanner, through his sister and plenary guardian Linda Kemp, sued Atrium Health Care Center Ltd., Jin and his practice, Prime Medical Associates Ltd. The family alleged that Tanner had suffered a seizure, and this caused him to fall while descending the stairs to the basement. Jin departed from the standard of care by failing to categorize Tanner as a fall risk; failing to restrict his access to stairs; and by lowering the dosage of medication to manage his seizures approximately six months prior to the subject accident, plaintiff's counsel argued. Atrium settled prior to trial. The matter proceeded to trial against Jin and his practice.

Between 2009 and 2011, Tanner was managing his seizures with a medication called Keppra, but breakthrough seizures occurred in August 2011, January 2012 and April 2012. A breakthrough seizure is a seizure that occurs despite the use of medications that have otherwise successfully prevented seizures in a patient. In April 2012, Tanner's Keppra dosage was increased and Dilantin was added due to the occurrence of these breakthrough seizures.

Tanner's counsel argued that in January 2013, Jin discontinued the Dilantin prescription and lowered the Keppra dosage. Tanner's counsel argued and that it was a departure from the standard of care to discontinue the Dilantin and lower the Keppra dosage, and it was also a departure to make these changes at the same time. Counsel further argued that Tanner had suffered from seizures for many years and therefore had a higher risk of falling, had fallen in the past and should have been restricted from access to stairs.

The plaintiff's internal medicine expert testified that more likely than not Tanner's fall was caused by a seizure. The expert noted that the extent of the injuries and the fact that this indicated he did not stretch out his arms to break his fall were evidence that a seizure came before the fall.

Defense counsel denied the allegations.

Defense counsel's internal medicine expert testified that it was within the standard of care for Jin to discontinue Dilantin because it comes with unfavorable side effects. He further opined that that it was within the standard of care to lower the Keppra dosage because Tanner had not had any breakthrough seizures for eight months, and that there was no reason to restrict Tanner's use of the facility's stairs.

Defense counsel argued that Tanner's fall was unwitnessed, and that a seizure was not the cause of Tanner's fall. Counsel argued that Jin, acting within the standard of care and in accordance with Tanner's treatment plan, waited eight months before discontinuing Dilantin and lowering the Keppra dosage, and that this was in an effort to return Tanner to where he was medically between 2009 and 2011, when he was only taking Keppra to manage his seizures.

Defense counsel contended that Dilantin is an older medication that is being phased out in favor of other medications due to its heavy medical and psychological side effects, and that caution must be used when treating someone with a long history of psychological illnesses with these medications.

The defense also contended that Tanner was a fully ambulatory man who had used the subject stairs countless times between 2005 and 2013, and that there was no reason to restrict his access to stairs.

Injury:

Tanner was transported to St. Francis Hospital where he was put into a medically induced coma for approximately two weeks due to swelling of the brain. He suffered a traumatic brain injury, a skull fracture, a subdural hematoma and a laceration to his face. He remained hospitalized at St. Francis from June 29 to July 17, 2013. Upon his release, he was transferred to Kindred Hospital for approximately six months to undergo inpatient rehabilitation. He underwent cognitive therapy and about one month of physical therapy. He was subsequently transferred to a nursing home where he has resided since. His medical bills totaled approximately \$350,000.

Tanner's counsel sought damages totaling \$2.7 million for his past and future pain and suffering and for his medical expenses.

Defense counsel conceded that Tanner had suffered the injuries claimed, but argued that these injuries were not the result of any alleged negligence by Jin.

Result:

The jury rendered a defense verdict.

Trial Information:

Judge: Thomas J. Lipscomb

Demand: \$400,000

Offer: None

Trial Length: 2 weeks

**Trial
Deliberations:** 1.5 hours

**Jury
Composition:** 9 male, 3 female

**Editor's
Comment:** This report is based on information that was provided by defense counsel for Jin. Plaintiff's counsel did not respond to the reporter's phone calls. Atrium Health Care's counsel was not asked to contribute.

Writer Jack Deming

Nurses acted appropriately in patient's treatment: defense

Type: Verdict-Defendant

Amount: \$0

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *other* - death
- *cardiac* - cardiac arrest

Case Type:

- *Wrongful Death*
- *Medical Malpractice* - Nurse; Cardiac Care; Failure to Test; Failure to Detect; Negligent Treatment

Case Name: Megan Schmitz executrix for the Estate of John Schmitz v. Swedish Covenant Hospital, Swedish Covenant Medical Group, Swedish Covenant Management Services, Steve Attanasio, D.O., Sung Sup Kim, M.D. and Northside Cardiovascular Associates, No. 2013-L-011531

Date: May 25, 2017

Plaintiff(s):

- Megan Schmitz (Female, 60 Years)
- Estate of John Schmitz (Male, 68 Years)

Plaintiff Attorney(s):

- Steven J. Seidman; Seidman Margulis & Fairman, LLP; Chicago IL for Megan Schmitz, Estate of John Schmitz
- Melanie K. Fairman; Seidman Margulis & Fairman, LLP; Chicago IL for Megan Schmitz, Estate of John Schmitz

Plaintiff Expert(s):

- James B. Morosco M.D.; Emergency Medicine; Chicago, IL called by: Steven J. Seidman, Melanie K. Fairman
- Myron Glassenberg M.D.; Neurology; Chicago, IL called by: Steven J. Seidman, Melanie K. Fairman
- Manish Jain M.D.; Rheumatology; Evanston, IL called by: Steven J. Seidman, Melanie K. Fairman
- Wajahat Hussain D.O.; Pulmonology; Elmhurst, IL called by: Steven J. Seidman, Melanie K. Fairman

Defendant(s):

- Sung Sup Kim,
- Steve Attanasio
- Swedish Covenant Hospital
- Swedish Covenant Medical Group
- Northside Cardiovascular Associates
- Swedish Covenant Management Services

Defense Attorney(s):

- Vito M. Masciopinto; Lewis & Gellen LLP; Chicago, IL for Swedish Covenant Hospital, Swedish Covenant Medical Group, Swedish Covenant Management Services
- David C. Burtker; Cunningham Meyer & Vedrine, P.C.; Chicago, IL for Sung Sup Kim
- Robert H. Summers Jr.; Cassidy Schade LLP; Chicago, IL for Steve Attanasio
- None reported for Northside Cardiovascular Associates
- Caitlin E. Ewing; Lewis & Gellen LLP; Chicago, IL for Swedish Covenant Hospital, Swedish Covenant Medical Group, Swedish Covenant Management Services

Defendant Expert(s):

- Dan J. Fintel M.D.; Cardiology; Chicago, IL called by: for Vito M. Masciopinto, Caitlin E. Ewing
- Payal Shah M.D.; Critical Care; Chicago, IL called by: for Vito M. Masciopinto, Caitlin E. Ewing
- Joanne Blake R.N.; Nursing; Glenview, IL called by: for Vito M. Masciopinto, Caitlin E. Ewing
- Jeffrey D. Kopin M.D.; Internal Medicine; Chicago, IL called by: for Vito M. Masciopinto, Caitlin E. Ewing
- Timothy A. Sanborn M.D.; Cardiology; Glenview, IL called by: for Vito M. Masciopinto, Caitlin E. Ewing
- Marianne Curia R.N., Ph.D.; Nursing; Joliet, IL called by: for Vito M. Masciopinto, Caitlin E. Ewing

Facts:

On May 9, 2013, plaintiff's decedent John Schmitz, 68, a retired Chicago police officer, presented to the emergency room at Swedish Covenant Hospital with complaints of intractable back pain. He was admitted into the hospital under the care of Dr. Sung Sup Kim, a cardiologist. Around 2 a.m. on May 12, 2013, Schmitz experienced a sudden onset of chest pain and shortness of breath. He became unresponsive and pulseless and died. An EKG performed during the code allegedly demonstrated sinus tachycardia, as well as findings consistent with myocardial infarction and aortic dissection. No autopsy was performed to confirm the cause of death.

Schmitz's widow, as representative of Schmitz's estate, sued Dr. Kim and his employer.

Northside Cardiovascular Associates; Swedish Covenant Hospital and related entities Swedish Covenant Medical Group and Swedish Covenant Management Services; and Steve Attanasio, D.O., also a cardiologist, alleging medical malpractice and wrongful death.

Dr. Kim settled with the estate prior to trial for \$400,000. He and his employer were dismissed. Dr. Attanasio was also dismissed. The case proceeded against the hospital only.

Schmitz reportedly had no signs or symptoms of a pulmonary embolism at the time of his presentation, but a d-dimer test (used to detect pulmonary embolisms) that was performed during the ER workup came back with elevated results, indicating possible clotting issues. After his admission, Dr. Kim reportedly issued a standard order for mechanical venous thromboembolism prophylaxis (VTE), including the use of sequential compression device (SCD) boots to prevent the development of deep vein thrombosis. A lumbar MRI revealed significant spinal stenosis, so pain medication was prescribed throughout his admission.

The lawsuit alleged that the hospital staff failed to follow certain physician orders and other procedures. According to the estate, despite Dr. Kim's orders, the hospital's nurses never placed the SCD compression boots on Schmitz. The estate also claimed the doctors failed to rule out pulmonary embolism and prescribe pharmacological VTE prophylaxis. The basis of all of the estate's claims was based on a contention that the EKG performed during the attempts to revive Schmitz also indicated that he suffered a pulmonary embolism.

Three months earlier, Schmitz had been hospitalized for a possible stroke, and was placed on antiplatelet medication (Plavix). He was diagnosed at that time with carotid artery stenosis and was supposed to undergo a carotid endarterectomy in August 2013. The estate maintained that the hospital's nursing staff failed to provide appropriate nursing care to Schmitz, the nurses' failure to place the SCD boots as ordered caused him to develop deep vein thrombosis and a pulmonary embolism, the nurses had a duty to inform the physician if the patient refused compression boots, and the failure to provide both mechanical and pharmaceutical prophylactic measures to prevent venous thromboembolism led to the fatal pulmonary embolism and caused his death.

The hospital asserted that the use of mechanical SCD boots was not required in this instance. The defense contended that the order was in place in the event Schmitz became immobile, but he remained ambulatory throughout his hospitalization, thereby negating the need for SCD devices. The hospital also argued that its nurses complied with the standard of care in using their own judgment not to place the SCD boots because Schmitz was ambulating and was on Plavix.

The defense additionally pointed to the lack of any proof that Schmitz died from a pulmonary embolism, upon which the entire theory of the plaintiff's case rested. The EKG only showed abnormalities consistent with a myocardial infarction and not a pulmonary embolism, according to the defense. The hospital argued that the most likely cause of Schmitz's sudden death was a myocardial infarction, aortic dissection or aneurysm.

Injury: Schmitz experienced a sudden onset of chest pain and shortness of breath. A code blue was called, but he became unresponsive, pulseless and died. An EKG performed during the code demonstrated sinus tachycardia, as well as findings consistent with myocardial infarction and aortic dissection. The estate claimed there was also evidence of a pulmonary embolism.

Schmitz was survived by his wife and three daughters. The estate's lawyers asked the jury to return an award of \$3,558,987.

The defense denied that anything the hospital staff did or failed to do caused Schmitz's death.

Result: The jury found no negligence on the part of the hospital staff and a defense verdict was entered.

Trial Information:

Judge: Kay Marie Hanlon

Demand: \$1.25 million

Offer: \$100,000 (hospital)

Trial Length: 7 days

Trial Deliberations: 1.75 hours

Jury Vote: 12-0

Editor's Comment: This report is based on information that was provided by plaintiff's and defense counsel.

Writer Jon Steiger

Surgeon: Patient's death due to preexisting co-morbidities

Type: Verdict-Defendant

Amount: \$0

State: Illinois

Venue: Cook County

Court: Cook County Circuit Court, IL

Injury Type(s):

- *brain* - brain damage
- *other* - death; sepsis; infection; unconsciousness
- *pulmonary/respiratory* - anoxia

Case Type:

- *Medical Malpractice* - Surgeon; Surgical Error; Failure to Treat; Failure to Diagnose; Post-Operative Care
- *Wrongful Death* - Survival Damages

Case Name: April Mickles, independent administrator for the Estate of Steven Mickles, deceased v. Gerald Lynch, M.D. and Surgical Associates of Oak Park and River Forest S.C., No. 2016-L-009231

Date: February 28, 2020

Plaintiff(s):

- Estate of Steven Mickles (Male, 51 Years)

Plaintiff Attorney(s):

- Robert F. Geimer; Tomasik Kotin Kasserman, LLC; Chicago IL for , Estate of Steven Mickles
- Katherine A. Twardak; Tomasik Kotin Kasserman, LLC; Chicago IL for , Estate of Steven Mickles

Plaintiff Expert(s):

- Kent A. Heck M.D.; Pathology; Houston, TX called by: Robert F. Geimer, Katherine A. Twardak
- David B. Allison Ph.D.; Statistics; Birmingham, AL called by: Robert F. Geimer, Katherine A. Twardak
- Joshua M. Braveman M.D.; Colon & Rectal Surgery; Columbus, OH called by: Robert F. Geimer, Katherine A. Twardak
- Michael T. McCurdy M.D.; Critical Care; Baltimore, MD called by: Robert F. Geimer, Katherine A. Twardak

Defendant(s):

- Gerald Lynch
- Surgical Associates of Oak Park and River Forest S.C.

Defense Attorney(s):

- Brian T. Henry; Pretzel & Stouffer, Chartered; Chicago, IL for Gerald Lynch, Surgical Associates of Oak Park and River Forest S.C.
- Sommer R. Luzynczyk; Pretzel & Stouffer, Chartered; Chicago, IL for Gerald Lynch, Surgical Associates of Oak Park and River Forest S.C.

Defendant Expert(s):

- Larry M. Jankelowitz M.D.; Critical Care; Chicago, IL called by: for Brian T. Henry, Sommer R. Luzynczyk
- Jeffrey D. Kopin M.D.; Internal Medicine; Lake Forest, IL called by: for Brian T. Henry, Sommer R. Luzynczyk
- Stephen W. Ganshirt M.D.; General Surgery; Lake Forest, IL called by: for Brian T. Henry, Sommer R. Luzynczyk

Facts:

On Sept. 12, 2014, plaintiff's decedent Steven Mickles, 51, underwent colorectal surgery in Chicago. The surgery was performed by a general surgeon, Dr. Gerald Lynch.

Mickles had been diagnosed with a large tubulovillous adenoma tumor, which was occluding 75 to 99 percent of his transverse colon. On Sept. 10, 2014, Mickles was evaluated by Lynch, who determined that he would perform a laparoscopic right hemicolectomy, which was performed two days later.

At the time of surgery, the tumor was found in the distal transverse colon. Based on the location of the tumor and the likelihood of the tumor being cancerous, Lynch performed an extended right hemicolectomy and removed 46 centimeters of colon from the right colon to the splenic flexure.

Mickles did well postsurgically, but he eventually developed atelectasis. As a result, on Sept. 15, 2014, a pulmonologist was consulted because of the concern of possible pneumonia. The next day, the infectious-diseases service was consulted, and antibiotics were started because there was a concern for a possible intra-abdominal infection. (A CT scan could not be obtained due to Mickles' weight and body habitus.)

On Sept. 17, 2014, Mickles developed sepsis. He later experienced a sudden drop in his blood pressure, resulting in an anoxic brain injury. Mickles was then transferred to another hospital, where he remained unconscious and unresponsive. The general surgery

service followed Mickles until Sept. 22, 2014, and at no time was there any indication that Mickles needed to be taken to surgery for an intra-abdominal process.

On Sept. 24, 2014, the decision was made to withdraw life support, and Mickles died. A post-mortem examination was performed, and it revealed a defect in the colon adjacent and distal to the anastomotic site. The defect included a 20-centimeter area of thinning of the colon wall, distal to the defect, and there was evidence of microscopic peritonitis. The post-mortem further revealed moderate to severe atherosclerotic disease of the brain, atherosclerotic disease of the coronary arteries, a massively enlarged heart, calcific atherosclerotic disease in the aorta and common iliac arteries, diabetic kidney disease, hypertensive kidney disease, and fatty liver disease.

Mickles' wife, April Mickles, acting as the representative of her husband's estate, sued Lynch and his practice, Surgical Associates of Oak Park and River Forest S.C. The lawsuit alleged that Lynch failed in his standard of care toward Steven Mickles and that Lynch's failure constituted medical malpractice.

Plaintiff's counsel contended that Steven Mickles died from complications related to colorectal surgery and that Mickles' death was caused by Lynch's substandard care.

The estate's colorectal surgery expert opined that Lynch unnecessarily removed the right colon and transverse colon and that the entire colon up to the sigmoid colon was removed. The expert also opined that Lynch failed to diagnose and treat both a leak of the anastomotic site and an infection postsurgically.

The estate's critical-care expert opined that had Lynch taken Mickles back to surgery at any time prior to the brain injury, Mickles would have survived.

According to the estate's statistics expert, had Mickles survived the surgery, he would have lived at least to the age of 68.

Defense counsel maintained that Lynch performed the surgery within the standard of care.

The defense's general surgery expert testified that Lynch removed only 46 centimeters of colon and did not remove the left colon. According to the expert, the reason those portions of the colon had to be removed was to obtain the lymph nodes where the tumor drained. There is no way to remove those lymph nodes without removing the blood supply the lymph nodes follow, the expert concluded.

The defense's expert in critical care opined that at no time prior to the brain injury was there any indication to take Mickles back to surgery. There was no indication that Mickles had a surgical abdomen or an infection that the drain and antibiotics were not

appropriately treating. Mickles experienced bacterial translocation as a result of the surgery, which led to bacteremia and sepsis, the expert stated.

The defense's internal medicine expert testified that, because Mickles had multiple significant pre-existing co-morbidities, his body was unable to tolerate the sudden drop in blood pressure and the septic shock which resulted in the brain injury. Mickles weighed nearly 400 pounds.

Defense counsel contended that the defect and the area of ischemic colon found at the autopsy was due to a second, and more severe, episode of septic shock the decedent experienced at the hospital he was transferred to postoperatively, at some point after Sept. 22, 2014.

Injury:

Mickles suffered a leak of the anastomotic site and an infection (sepsis) post-operatively. He later experienced a sudden drop in his blood pressure, resulting in an anoxic brain injury. Mickles was transferred to another hospital, but he remained unconscious and unresponsive. It was ultimately decided to withdraw life support, and Mickles died on Sept. 24, 2014.

Mickles' estate sought to recover \$98,162.10 in medical costs and \$12,012.65 in funeral expenses. In total, plaintiff's counsel asked the jury for \$4,610,174.75.

The parties established a \$1 million/\$225,000 high/low agreement.

Result:

The jury rendered a defense verdict. It found that Lynch was not negligent in the care and treatment of Mickles. Thus, Mickles' estate recovered the high/low agreement's \$225,000 minimum amount.

Trial Information:

Judge: Thomas M. Donnelly

Trial Length: 11 days

Trial Deliberations: 0

**Editor's
Comment:**

This report is based on information that was provided by plaintiff's and defense counsel.

Writer

Aaron Jenkins