

MEDICAL MALPRACTICE

Amount **\$7,000,000.00**
Wrong diagnosis led to fatal surgery, suit alleged
\$3,500,000.00 Wrongful Death: Survival
\$3,500,000.00 Wrongful Death: Wrongful Death

Trial Length 4 weeks

Trial Deliberations 4.5 hours

Plaintiff Attorney(s) John Bonina; Bonina & Bonina, P.C.; Brooklyn, New York, for the Estate

Facts & Allegations Plaintiff's decedent, 52, a livery service's dispatcher, presented to defendant internist reporting that he was suffering fatigue and weakness, and the doctor observed severe jaundice.

Decedent was referred to Interfaith Medical Center, in Brooklyn. He was admitted, and a test revealed that his blood contained a greatly excessive level of bilirubin. Subsequent tests suggested that he was suffering an obstruction of a hepatic duct, which facilitates the drainage of bile.

On December 12, 2006, decedent underwent diagnostic surgery: an endoscopic retrograde cholangiopancreatography. The procedure was performed by defendant gastroenterologist. The procedure did not reveal the cause of decedent's symptoms, and it caused a hemorrhage that necessitated clipping and cauterization of an artery.

On December 18, 2006, decedent underwent a percutaneous transhepatic cholangiography: an X-ray of the bile ducts. The procedure was performed by defendant radiologist, who suspected that the hepatic duct's obstruction was a result of an intra-ductal mass. The test did not permit full visualization of the duct. The test was repeated during two of the ensuing four days, but the results were inconclusive.

On December 29, 2006, defendant surgeon performed an exploratory laparotomy. He determined that decedent's hepatic ducts were not obstructed.

On December 31, 2006, a doctor noted that decedent was exhibiting oliguria: a decreased output of urine. Tests revealed a severe decrease of his blood's hematocrit and hemoglobin. Defendant internist suspected internal bleeding, and he ordered transfusions. Defendant surgeon was consulted, but he did not believe that bleeding was occurring.

Decedent's condition deteriorated. He suffered shock, failure of his kidneys and severe impairment of his respiration. He died on January 2, 2007. His widow claimed that her husband's death was a result of unaddressed bleeding that was caused by the procedure that defendant surgeon performed.

The estate alleged that the defendant doctors failed to properly diagnose and/or treat decedent's condition, that the failures constituted malpractice, and that Interfaith Medical Center was vicariously liable for the actions of defendant internist, surgeon and radiologist.

The estate's counsel claimed that defendants were distracted by the incorrect belief that decedent was suffering an obstruction of a hepatic duct. He contended that decedent's initial symptoms were a product of benign recurrent intrahepatic cholestasis, which is a rare condition that inhibits the liver's release of bile. The estate's expert gastroenterologist opined that decedent's hepatic ducts could have been fully visualized via performance of a magnetic resonance cholangiopancreatography, and the estate's counsel contended that the test would have conclusively demonstrated that decedent was not suffering obstruction of a hepatic duct. The estate's counsel claimed that such a finding would have led to the pursuit of other possible causes of decedent's symptoms. He contended that the doctors' misdiagnoses led to defendant surgeon's performance of the cholangiopancreatography that caused decedent's fatal bleeding.

The estate's counsel also claimed that defendant surgeon should have detected and addressed decedent's bleeding. The estate's expert surgeon opined that exploratory surgery should have been performed on December 31, 2006, and he contended that prompt reparations would have saved decedent's life.

The estate's expert pathologist noted that decedent lost 700 cubic centimeters of blood, but the hospital's expert pathologist opined that such an amount could not produce a fatal result. The hospital's pathologist opined that decedent's death was an unpreventable result of sepsis, and he noted that bleeding was not observed during a sonography that was performed during the day that preceded decedent's death.

The hospital's counsel also contended that bleeding is an accepted risk of an endoscopic retrograde cholangiopancreatography, and he claimed that defendant surgeon and internist promptly and effectively resolved any bleeding that occurred during the procedure. He claimed that the procedure is a standard method of addressing a potentially obstructed hepatic duct. He contended that doctors suspected that a potentially cancerous mass may have been obstructing one of decedent's hepatic ducts, and he claimed that the test provided the best method of locating such a mass.

Injuries/Damages The estate's counsel claimed that decedent suffered undiagnosed benign recurrent intrahepatic cholestasis. He contended that doctors performed five unsuccessful diagnostic procedures that included an endoscopic retrograde cholangiopancreatography, a laparotomy and three percutaneous transhepatic cholangiographies. The first test was performed on December 12, 2006, and the estate's counsel claimed that the test caused bleeding that ultimately claimed decedent's life. The last test was performed on December 29, 2006. Decedent subsequently developed symptoms that included shock, failure to his kidneys and severe impairment of his respiration. He died on January 2, 2007. Decedent, 52, was survived by a wife and three teenaged children. Decedent's estate sought recovery of wrongful death damages that included decedent's lost earnings, damages for decedent's pain and suffering, and damages for his children's loss of parental guidance.

Result The jury found that defendant gastroenterologist and defendant surgeon departed from accepted standards of medical care. Interfaith Medical Center was thusly deemed vicariously liable. The jury determined that the estate's damages totaled \$7 million.