

BONEZZI SWITZER POLITO & PERRY CO. LPA

BSPP congratulates Bret C. Perry on obtaining a defense verdict in favor of his clients, a neurosurgeon and his practice group, in a recent medical malpractice and wrongful death trial held in Summit County, Ohio. The decedent, an 87-year-old, widow, and mother of three adult children, had been living independently prior to presenting to the Emergency Department with speech difficulties. Initially, the healthcare team suspected the decedent was experiencing a stroke. However, imaging confirmed evidence of an acute-on-chronic subdural hematoma. The decedent was admitted for observation and Mr. Perry's client was consulted to pro-

gery, and the decedent was transferred to an acute rehabilitation facility for what was expected to be a short stint of rehabilitation before returning to live independently.

While admitted to the acute rehabilitation facility, arrangements were made to transfer the decedent via ambulette to her outpatient neurosurgery appointment with Mr. Perry's clients. The ambulette service arrived with the decedent to this appointment but did not remain with the decedent during the duration of the appointment and did not remain on the premises to assist the decedent at the conclusion of her appointment. Defendants attempted to locate the ambulette driver and contacted the acute rehabilitation facility given that the decedent arrived with no accompanying documentation. In the interim, the decedent was evaluated, and her subdural hematoma was deemed stable. Following the appointment, the decedent was returned to the waiting room where she attempted to stand from her wheelchair suffering a significant fall, striking her head, and causing a later diagnosed acute subdural hematoma, subarachnoid hemorrhage, and epidural hematoma. The decedent died approximately 30 days after the fall. The Medical Examiner determined the cause of death was blunt force trauma due to the fall occurring at Defendants' outpatient office. The Medical Examiner rendered this diagnosis without reviewing any of the CT scan images, or conducting an autopsy.

Plaintiff's experts claimed that Defendants were negligent in failing to provide one-to-one care at the outpatient office evaluation given the decedent's history of subdural hematomas, advanced age, and need for assistance as evidenced her prior history of falls. Plaintiff's expert neurologist claimed that due to the fall, the decedent experienced a worsening of her prior subdural hematoma which proximately caused her death. Defendants countered arguing that one-to-one care is not required in an outpatient office setting, and that the ambulette driver was solely responsible for transporting, waiting and returning with the decedent following her appointment. Indeed, expert EMS/EMT testimony confirmed that the ambulette driver's sole responsibility was to the decedent and that his failure to remain with the decedent was a breach of the standard of care. In regard to proximate causation, Defendants' neurosurgery expert testified in detail as to his review of the multiple CT scan images, the lack of radiographic evidence of any significant injury following the fall, and that the death was not proximately caused by the fall at issue contrary to the determination of the Medical Examiner.

The Plaintiff asked the jury to return a verdict in excess of \$2,650,000 against all Defendants. The jury deliberated for just over four hours before returning a verdict in favor of the Defendants finding that the standard of care was met.



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