

BONEZZI SWITZER POLITO & PERRY CO. LPA

BSPP congratulates Bret C. Perry and Chris F. Mars on obtaining a defense verdict in favor of their clients, a Neurosurgeon, and his employer, in a recent medical malpractice and wrongful death trial held in Erie County, Ohio. The decedent, a 62-year-old, mother of two, suffered from chronic low back and leg pain caused by degenerative scoliosis, vertebral disc disease, and nerve root compression for many years. In order to treat these complaints, a lateral interbody fusion surgery was recommended. During the surgery, the decedent suffered an injury to her aorta. Despite aggressive resuscitative measures, the decedent died because of the injury to her aorta. Plaintiff claimed that the decedent was not a candidate for a lateral interbody fusion, that conservative therapy was required prior to surgery, to meet the standard of care, and had surgery not been performed, the decedent would not have suffered her untimely death. Plaintiff requested that the jury return a verdict in the amount of \$3,000,000 for the wrongful death of the decedent.

On behalf of their clients, Messrs. Perry and Mars argued that an objective review of the facts confirmed that the treatment plan for the decedent was consistent with the evidence-based guidelines. The decedent was not a candidate for conservative therapy given her long-standing disease, and that the lateral interbody fusion procedure was the most appropriate surgery because it would treat both her spinal instability and her radiculopathy (leg pain). Further, the defense expert explained that despite the best of care, consistent with the guidelines, the decedent suffered a known and recognized complication of the surgery.

The jury deliberated for less than two (2) hours before returning a verdict in favor of Defendants finding that the standard of care was met



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