



Neubert, Pepe & Monteith, P.C. Obtains Defense Verdict in Favor of General Surgeon

On November 1, 2016, following a two-week trial of a medical malpractice case before Judge Cesar Noble, a Hartford jury rendered a defense verdict in favor of Dr. Matthew Dukehart, a general surgeon affiliated with Eastern Connecticut Medical Professionals Foundation. Attorneys Michael D. Neubert and Gretchen G. Randall represented Dr. Dukehart and his employer. The jury heard evidence that plaintiff Corinne Gaudet, a 59-year-old patient, underwent an elective incisional hernia repair surgery with Dr. Dukehart in August 2012 at Manchester Memorial Hospital. The surgery itself was uneventful; however, one day following Dr. Dukehart's procedure, Ms. Gaudet developed signs and symptoms that were concerning for a small bowel perforation. She was taken back to the operating room emergently by another surgeon, who detected and surgically addressed the perforation. Ms. Gaudet recuperated after a one-week hospital stay, although she did require additional associated treatment, including a skin graft procedure and an abdominal reconstruction surgery one year later.

At trial, plaintiff was not claiming Dr. Dukehart was negligent in having caused a small bowel perforation during the surgery. All of the expert witnesses agreed that a small bowel perforation is a recognized risk of this surgical procedure and can occur in the absence of negligence. Instead, plaintiff's claim was that Dr. Dukehart deviated from the standard of care in failing to adequately inspect the surgical field prior to closing Ms. Gaudet's abdomen. Plaintiff claimed, through the testimony of her expert surgeon, that Dr. Dukehart was obligated to have detected and repaired the perforation during his surgery. Defense experts, including a general surgeon and a clinical and anatomical pathologist, testified that Ms. Gaudet had a delayed perforation caused by an electrocautery arcing resulting in a thermal injury to the wall of the small intestine. They explained that the thermal injury developed into a full-thickness perforation 6 to 18 hours after Dr. Dukehart's surgery was completed. Accordingly, the perforation would not have been detectable to the defendant surgeon despite careful inspection of the surgical field.

Plaintiff's counsel demanded \$1,250,000 just prior to the start of trial. The jury deliberated for less than thirty minutes before reaching its verdict.

Contact Us

Please contact Michael D. Neubert or Gretchen G. Randall if you have any questions or would like further guidance about any issues raised in this advisory. Contact us at 203.821.2000 or www.npmlaw.com.



Michael D. Neubert

Michael D. Neubert is a founding partner and head of the litigation practice group at Neubert, Pepe & Monteith, P.C. Attorney Neubert has extensive experience in the areas of civil and commercial litigation, professional liability defense, hospital liability law, representation of physicians in professional licensing disputes, product liability, administrative law, premise liability, municipal liability, and employment litigation. His clients include numerous hospitals, physicians, law firms, professional associations, major insurance companies, corporations, and municipalities.



Gretchen G. Randall

Gretchen G. Randall has extensive experience in civil litigation. She practices primarily in the areas of medical malpractice defense, legal malpractice, products liability and premises liability. she focuses on defending hospitals, physicians, mid-level practitioners and nursing staff against claims of medical negligence. Attorney Randall has successfully litigated jury cases and bench trials, as well as representing her clients' interests in binding arbitrations and mediations. She also represents physicians in licensing matters before the Connecticut Department of Public Health.