

SOURCE: Connecticut Law Tribune (The) (Hartford,CT)
AUDIENCE: 4,670 [provided by Nielsen//NetRatings]
DATE: 05-21-2011
HEADLINE: Anesthesia Choice leads to \$10.5 Million Verdict

Source Website

Anesthesia Choice leads to \$10.5 Million Verdict

Connecticut Law Tribune

Monday, May 23, 2011

Copyright 2011, ALM Properties, Inc.

Printed for

Anesthesia Choice leads to \$10.5 Million Verdict

'Perfect Storm (TM) of errors led to coma, neurological damage

By THOMAS B. SCHEFFEY

Karla Rosa, et al v. Anesthesia Associates of New London, et al.:When 39-year old Karla Rosa was admitted to Lawrence & Memorial Hospital in New London, doctors expected her to go home later that day after her surgery to repair a tiny hernia no larger than a 50-cent piece. But when her husband, Naval petty officer Delmar Rosa, arrived to pick up her up, he was told that complications from anesthesia had left her comatose, in intensive care, with only a 30 percent chance of survival. Shocked, he had to decide whether to bring the couple (TM)s daughters, 9 and 11, to visit their mother for what might be the last time.

On the morning of March 27, 2006, Karla Rosa had her pre-surgery exam from anesthesiologist Thomas Mielt, who took her medical history. Rosa, he found, was a diabetic, and at 5 feet 4 inches tall and 287 pounds, was morbidly obese. She also had a history of GERD " gastroesophageal reflux disease. According to her *lawyer*, Sean McElligott of Bridgeport (TM)s *Koskoff, Koskoff & Bieder*, any one of these three medical conditions made her a good candidate for airway intubation. That means installing a plastic breathing tube that protrudes past the esophagus opening, all the way down into her windpipe. Instead, Dr. Mielt gave nurse Jean Rickheimer discretion to choose intubation or another delivery mechanism, if Rosa needed to receive full sedation later in the surgery.

A constant concern in anesthesia is that the patient will regurgitate stomach liquid, and inhale it into the delicate lungs. So why wasn (TM)t Karla Rosa intubated? "There was kind of a perfect storm of mistakes, " said McElligott.

No tube of any sort was needed at first. The initial light anesthesia Mielt prescribed, like the light sleep "cocktail " used for endoscopy, didn (TM)t require any sort of airway appliance. However, nurse Richeimer found that Rosa was not responding well to light general anesthesia, and paged doctor Mielt, who was busy. Another colleague in Mielt (TM)s group, Dr. Bart Calobrisi, responded. "He was in a difficult situation, " said McElligott, since he had not examined the patient. Calobrisi later testified in a deposition that he did not notice Rosa was obese, because she was draped for surgery.

Without reading her chart or learning about her history from the nurse, he also missed the history of GERD and the fact that she was diabetic. Diabetics sometimes digest food more slowly, and have a higher risk for "aspiration " " regurgitation and inhalation of stomach contents. Calobrisi assented to the nurse (TM)s request for full general anesthesia.

In an exchange that took less than a minute, McElligott said, Calobrisi also agreed to the use of the LMA device. Nurse Richeimer chose the laryngeal mask airway, or LMA, which is easier to insert. It is also less invasive, delivering air through the throat to the lungs without connecting with the windpipe or sealing off the esophagus. Fully sedated at a "paralytic " level, Rosa did not attempt to reject the airway device. However, she immediately regurgitated stomach liquid and inhaled it, causing destruction of lung tissue and leading to a four-week coma. "When you inhale stomach acid, it leads to a condition which is fatal in 70 percent of cases, " said McElligott. "It (TM)s very serious, a chemical burn within your lungs. "

The treatment for healing is radical. The hospital flew in a Rotaprone bed, that can turn the patient like a rotisserie. A month later, Rosa emerged from her coma with serious neurological problems, and required therapy to re-learn speech and motor functions, McElligott said. Her medical bills were \$191,808.

In a 13-day trial before New London Superior Court Judge Emmett Cosgrove, veteran defense *lawyer* Robert Cooney, of Williams, Cooney & Sheehy in Trumbull, contested causation and said there was no breach of the standard of care. The defense contended Rosa had "occult " pneumonia, which went undetected by everyone, and was the reason for her lung problems. Furthermore, using a laryngeal mask was fine, and within the standard of care, the defense said.

McElligott called upon a highly-regarded neurologist, Daniel Moalli, who treated Rosa. Locally famous, Moalli helped discover Lyme disease and is known for his work with repetitive stress injuries suffered by Electric Boat shipyard workers, McElligott said. Dr. Moalli established Rosa (TM)s neurological injuries, which also included nerve damage to her feet. It makes ambulation "like walking on glass, " McElligott said.

The plaintiff (TM)s experts included pulmonologist Walter Baigelman, from Tufts University in Boston, and anesthesiologist Sheldon Deluty from New York University. Quinnipiac Law School instructor Christina Speisel, author of "Law On Display " was the visuals expert, and worked with still and video illustrators to explain the anatomy and the medical devices involved.

The highest defense offer of settlement was \$400,000, and the plaintiff (TM)s pretrial demand was \$950,000, McElligott said. The jury rendered a defense verdict for Mielt individually, but found the practice group liable, and attributed negligence to both nurse Richeimer and Dr. Calobrisi. She died two years before trial of leukemia, and Calobrisi died at 52, in February, just before the trial began.

In his closing arguments, McElligott asked for \$50 an hour for the estimated 250,000 waking hours of Rosa (TM)s life expectancy, which would have been \$12 million. The jury deliberated about seven hours, and awarded about \$200,000 in medicals, \$2 million in loss of consortium damages to Delmar Rosa, and past non-economic damages to Karla Rosa of \$1.85 million. Her future pain suffering damages total \$6.5 million, for a total award of \$10.5 million, which is evidently the highest personal injury award in New London County History.

Cooney did not return calls for comment.

Highlights: lawyer, Koskoff, Koskoff & Bieder