



**Harrisburg Partner, Michael Badowski, Esq.,
Prevails in Defense of Anesthesiologist**

Husband plaintiff, physician anesthesiologist and partner with our defendant anesthesiologist, sued over the death of his 60 year old wife. Plaintiff's decedent wife had a long history of peptic ulcer disease with a significant past surgical history that included a Billroth II stomach anastomosis and multiple diagnostic and therapeutic esophogastroduodenoscopies (EGD). She was chronically anemic with persistent melanotic stools. On April 3, 2004, the lady began vomiting copious amounts of blood and presented to the Pottsville Hospital for emergency EGD. At the time of presentation, the woman's hemoglobin was only 7 and she was in a state of compensated shock with low blood pressure and tachycardia despite efforts at rapid volume replacement therapy. Our client provided the anesthesiology care and elected to proceed with the EGD under conscious sedation rather than general anesthesia with endotracheal tube intubation (ETI) due, in large measure, to his concerns with the patient's possible cardio-vascular collapse. Within moments of the defendant gastroenterologist's insertion of the gastroscope, the lady regurgitated and, despite maintaining a gag reflex, she aspirated an unknown amount of bloody vomitus into her lungs. The woman was then immediately intubated but thereafter she was unable to be weaned off of the ventilator. She remained in the ICU for nearly a month where she developed pulmonary aspiration pneumonia that she could not combat. She died shortly after transfer to Penn.

Plaintiff's primary theory of liability rested with the contention that in the face of active hematemesis, the standard of care required ETI and rapid sequence induction general anesthesia to mechanically protect the patient's airway from aspiration. The defense successfully demonstrated that allowing patients to maintain their own natural airway protective mechanisms by way of monitored sedation anesthesia care represented the appropriate standard in the setting presented. The evidence consisted largely of explaining the risk-benefit analysis as between the two competing anesthesia modalities in conjunction with the exercise of prudent clinical judgement.

Defense experts, all from the University of Pennsylvania, included: gastroenterologist, Michael Kochman, M.D.; gastroenterologist, Gregory Ginsberg, M.D.; and anesthesiologist, Jeffrey Mandel, M.D..

Following a two week trial, on April 17, 2009, a 12 member Schuylkill County jury unanimously returned a verdict of no negligence in favor of Mr. Badowski's anesthesiologist client.



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