

Maryland Lawyer

News and analysis of legal matters in Maryland

Verdicts & settlements

Jury hits hospital with verdict for \$1.3M

Mother, 34, died after surgery to resolve blood clots

BY BRENDAN KEARNEY

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A Baltimore jury has awarded nearly \$1.37 million to the sons of a 34-year-old city woman who died in surgery at Union Memorial Hospital in November 2005.

Dr. Mojtaba Gashti, now chief of vascular surgery at the Charles Village hospital, was inserting a blood-clot filter in Erica Goodman's superior vena cava when Goodman went into cardiac arrest. The parties disagree, though, on what caused the problem.

Attorneys for Goodman's family argued the procedure never should have been attempted and that her death was caused when a dilator pierced the vein and the aorta, flooding the area around her heart. Defense attorneys, representing the hospital and Gashti's supervising surgeon, claimed the operation was performed correctly and that Goodman's death was due to an unrelated clot migration from below the heart, leading to a pulmonary embolism.

Gashti, who was named 2009 Public Citizen of the Year by the Maryland Chapter of the National Association of Social Workers for his humanitarian work in Haiti, was not a defendant in the Baltimore City Circuit Court trial this month before Judge Barry G. Williams.

However, the jury found Gashti breached the standard of care in Goodman's case and held the hospital liable. It awarded Goodman's sons, now 14 and 11, \$400,000 each in non-economic damages for the loss of their mother, as well as a total of \$467,000 for the loss of her household services. Goodman was not employed when she died and had been the boys' only caretaker.

The jury also awarded \$100,000 to Goodman's estate for her pre-death pain and suffering, but they did not compensate her parents, who testified at trial. In keeping with



RICH DEWASON

Mark C. Kopec (left) and Frank W. Spector (right) represented the parents and children of Erica Goodman, who went into cardiac arrest during surgery to insert a blood-clot filter.

the statutory cap on non-economic damages in medical malpractice cases, the total award of \$900,000 in non-economic damages will be reduced by \$87,500.

Mark C. Kopec, one of the family's attorneys, said he is "very pleased" to receive an award that provides "compensation and security" to the kids.

"They have lost her not only for the time that they are being raised but for a lifetime," said Kopec.

Dr. Frank J. Criado, the supervising surgeon, was not found liable. His attorney, Douglas K. Schrader, said "it was a technically flawless procedure" and that the defendants had "absolutely not" done anything wrong.

The perforations the plaintiffs claim caused the fatal bleeding actually opened during the 55 minutes of CPR the operating room staff performed after Goodman became unresponsive, not before — and mid-surgery tests supported that theory, Schrader said.

Donald L. DeVries Jr., who represented the hospital, did not return calls seeking comment.

The defense claimed that Gashti's decision, which came days into Goodman's hospital stay, to insert the cage-like filter as opposed to prescribing blood thinners was wise considering Goodman's other blood issues, including severe anemia and excessive bleeding during menstruation.

"You don't give a lady like that anticoagu-

lants to thin her blood more and hope for the best," Schrader said.

But the plaintiffs countered that Goodman had already taken and could have tolerated more blood thinners whereas the filter procedure was "rare and controversial." They also alleged the surgeons did not obtain Goodman's informed consent, but that claim did not result in damages.

"Their approach was to catch these clots, and we argued that the blood thinners would have caused these clots to resolve," Kopec said.

Both plaintiff and defense presented testimony from expert vascular surgeons and economists. And in addition to Gashti and Criado, the defense also put on a pathologist. Goodman's parents, Laurie Tuck and Horace Goodman, also testified; the children, who now live with Tuck in Northeast Baltimore, did not.

"I just felt ... the most appropriate way to convey to the jury what they've been through and what they face was through the grandparents," Kopec said.

The trial began Aug. 10 and the jury got the case last Monday. After a day off Tuesday, they returned their verdict Wednesday afternoon. The last settlement offer was \$350,000, Kopec said.

Laurie Tuck, et al. v. The Union Memorial Hospital, et al.

Court: Baltimore City Circuit Court

Case No.: 24-C-08-001709

Proceeding: Jury Trial

Judge: Barry G. Williams

Outcome: Plaintiffs' verdict

Award: \$1,367,956 including \$900,000 in non-economic damages, subject to cap

Dates:

Incident: Nov. 1, 2005

Suit filed: March 11, 2008

Disposition: Aug. 19, 2009

Plaintiffs' Attorneys: Frank W. Spector and Mark C.

Kopec of Spector & Kopec LLC

Defense Attorneys: Donald L. DeVries Jr. and Kelly A.

Donohue of Goodell, DeVries, Leach & Dann LLP for

Union Memorial; Douglas K. Schrader for Dr. Criado

Counts: Wrongful death, survival action, informed

consent