



And The Defense Wins

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Thomas J. Koch and Chad M. Castro



DRI members [Thomas J. Koch](#) of **Pugh, Jones & Johnson, P.C.** and [Chad M. Castro](#) of **Barker & Castro, LLC** in Chicago successfully represented Jarrod Wright, M.D., and Saints Mary and Elizabeth Medical Center, St. Elizabeth Hospital, respectively, in a two-week, wrongful death trial recently. The Passen Law Group in Chicago represented the plaintiffs.

On July 10, 2007, Chicago Fire Department paramedics transported plaintiff's decedent, Angel Lugo, age 48, to the emergency room at St. Elizabeth Hospital in Chicago complaining of shortness of breath. An x-ray was taken at approximately 4:30 p.m., and read by ER physician, Jarrod Wright. Dr. Wright diagnosed Mr. Lugo with respiratory failure secondary to pneumonia, based on a lower lobe infiltrate of his right lung. The key 4:30 p.m. film was discarded by the hospital and not retained. Between 4:00 p.m. and 4:49 p.m., Mr. Lugo experienced increasing respiratory failure, despite supplemental oxygen and breathing treatments, and resulting in five attempts by Dr. Wright and two other physicians to intubate Mr. Lugo between 4:49 pm and 5:30 p.m. At approximately 5:30 p.m., Mr. Lugo became asystolic, and aggressive CPR was begun. A successful tracheostomy was performed shortly after 5:30 p.m., but despite approximately three hours of attempting to resuscitate Mr. Lugo, he never responded and was pronounced dead at 8:23 p.m. An x-ray taken post-mortem revealed that he had a tension pneumothorax in his lower right lung. Unknown to Dr. Wright and others caring for Mr. Lugo before his death, the patient had lethal levels of methadone in his blood, as well as metabolites of heroin. The Cook County Medical Examiner determined, after obtaining a consensus of her peers, that that the cause of death was methadone and opiate intoxication.

The estate of Mr. Lugo sued the hospital, as well as Dr. Wright, alleging medical malpractice. According to the plaintiff's expert radiologist, Dr. Wright misread the x-ray taken at 4:30 p.m., which the plaintiff alleged showed a tension pneumothorax. The plaintiff also alleged that the defendants failed to timely diagnose and treat the tension pneumothorax by 4:49 p.m. Plaintiff's emergency medicine expert, Bruce Janiak, M.D., testified that the standard of care required Dr. Wright to perform a needle thoracotomy to treat a tension pneumothorax at 4:49 p.m., even though there were no specific signs of a pneumothorax—just in case one was present. Defense emergency experts, Dr. James Adams and Dr. John Flaherty, testified that the Janiak standard did not exist and Dr. Wright testified on his own behalf that such a procedure would be reckless and dangerous. The plaintiff's expert pathologist, Dr. Michael Kaufman, opined that Mr. Lugo's cause of death was an undiagnosed and untreated tension pneumothorax, although he admitted that he did not know the clinical signs and symptoms of either pneumothorax or tension pneumothorax.

Defense experts agreed that the high levels of methadone, along with severe cardiac and lung disease, caused by years of cocaine abuse, heroin abuse, and heavy smoking superimposed on a respiratory infection led to Mr. Lugo's rapid lung failure and death. The defendant's medical experts opined that because a chest x-ray taken 20 minutes before death did not show a tension pneumothorax, and one was present on the post mortem film, the tension pneumothorax occurred due to the aggressive CPR and positive pressure oxygen that Mr. Lugo received in the interim.

Plaintiff's counsel sought a recovery for wrongful death, on behalf of decedent's mother and four sisters. Plaintiff's counsel asked the jury for \$2.5 million.

The jury deliberated 37 minutes before rendering a verdict in favor of the defendants.

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