

MEDICAL MALPRACTICE--POSTOP CARE BLAMED FOR DEATH AFTER SPINAL SURGERY
(HHH 41/1) *Estate of Paula Chibe, deceased v Ingalls Memorial Hospital, Yeldez Montes, R.N., Dr. Asma Manzar, Dr. Jeffrey Yeh, Harvey Anesthesiologists S.C., Dr. Martin Luken* 13L-1037 Tried May 11-26, 2016 (12D)

Verdict: \$2,500,000 v Ingalls Memorial Hospital, Yeldez Montes R.N. and Dr. Asma Manzar (\$1,000,000 loss of society; \$1,000,000 grief and sorrow; \$500,000 loss of money, benefits, goods and services); Not Guilty v Dr. Jeffrey Yeh and Harvey Anesthesiologists; Dr. Martin Luken settled out the day before trial for \$800,000 (to be setoff from verdict).

Judge: Gregory J. Wojkowski (IL Cook-Law)

Pltf Attys: Donald A. Shapiro and Matthew R. Basinger of *Donald A. Shapiro Ltd.* Demand: \$5,500,000 Asked: \$12,500,000 - \$15,000,000

Deft Attys: Anne Scrivner Kuban and Scott E. Irvin of *Barker & Castro* for Ingalls Memorial Hospital, Montes (Self-Insured) Offer: IMH \$250,000; Timothy G. Nickels and Sarah A. Ferrill of *Swanson, Martin* for Manzar (ISMIE) Offer: none; Spyridon J. Demakis and Peter J. Strauss of *Cunningham, Meyer* for Yeh, Harvey Anesthesiologists S.C. (ISMIE) Offer: none

Pltf Experts: Dr. Ruric C. Anderson, III (Hospitalist), Dr. Michael W. Kaufman (Pathologist), Janet Jesiolowski, R.N., 1648 Westwind Drive, Jacksonville, FL (877-276-0461) (Nursing) and Dr. Mark Dershwitz, University of Massachusetts Medical School, 55 Lake Avenue North, Worcester, MA (508-856-2480) (Anesthesiologist)

Deft Experts: Frances Khoury, R.N. (Nursing) for Ingalls Memorial Hospital, Montes, Dr. Hiren Shah, Northwestern Memorial Hospital, 251 E. Huron, #16-738, Chicago, IL (312-926-5924) (Hospitalist) and Dr. I. Scott Denton (Pathologist) for Manzar, Dr. William G. Soden (Anesthesiologist) and Adam Negrusz, Ph.D., Forensic Toxicology Consulting Inc., Schaumburg, IL (630-989-2909) (Toxicologist) for Yeh

Paula Chibe was admitted to Ingalls Memorial Hospital for severe intractable back pain on March 14, 2011. Deft neurosurgeon Martin Luken diagnosed a herniated lumbar disc and determined she needed urgent spinal surgery, which was scheduled for March 16. Deft anesthesiologist Jeffrey Yeh performed a pre-anesthesia evaluation and concluded F-35 Paula had probable obstructive sleep apnea based on her morbid obesity (325 lbs) and large neck circumference. However, Paula was never formally diagnosed with the condition and deft hospitalist/internist Asma Manzar cleared her for surgery. Dr. Yeh altered his anesthesia plan by doing an awake intubation and avoiding narcotics due to the increased risk of respiratory depression. The L5-S1 laminectomy surgery proceeded without incident and Paula recovered well in the post-anesthesia care unit. She was then transferred to a regular bed on the medical surgical floor under Dr. Luken's care, without any pulse oximetry monitoring despite the fact that she had been deemed as having probable obstructive sleep apnea. Dr. Luken ordered postop administration of subcutaneous hydromorphone (Dilaudid, 3-4 mg dose) as needed. Paula complained of pain at 3:20 am on March 17, so deft Nurse Montes injected 3 mg of Dilaudid and left the room. Montes returned at 4:20 am and accepted a non-verbal response from Paula regarding her pain level, in violation of hospital policy which prohibited nurses from accepting non-verbal answers. Montes came back to the room at 5:10 am and found her unresponsive. Despite code blue resuscitative efforts, Paula was pronounced dead around 6 am (survived by five minor children). The estate argued Paula died from oxygen deprivation due to opioid-induced respiratory depression/failure triggered by the combination of the Dilaudid effects and her underlying obstructive sleep apnea. The estate contended Dr. Manzar failed to take an adequate patient history and failed to diagnose obstructive sleep apnea, Dr. Manzar and Dr. Yeh both negligently failed to advise Dr. Luken about the risks of respiratory depression from narcotic opioid medications in patients with obstructive apnea, and Nurse Montes negligently administered an excessive dose of Dilaudid and failed to properly/timely check on the patient. The estate further asserted that if Paula had been placed on a pulse oximetry monitor, it could have been set to warn the nursing staff if her oxygen saturation level dropped. The defense contended the cause of death was dilated cardiomyopathy as determined by an autopsy at the Cook County Medical Examiner's office, denied the patient died from opioid-induced respiratory failure, and denied she even had obstructive sleep apnea as evidenced by the fact that she had been intubated and extubated for surgery without any of the complications which would have occurred if she did have the condition. Paula had never been diagnosed with any cardiac issues prior to her death. The jury reportedly deliberated over three hours.