

Missouri Lawyers

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WEEKLY

■ DEFENSE VERDICT

Franklin County jury decides in favor of doctor

Plaintiff alleged surgeon's errors lead to husband's death

MEDICAL MALPRACTICE

■ **Venue:** Franklin County Circuit Court

■ **Case Number/Date:**

11AB-CC00162/Sept. 26, 2013

■ **Judge:** John B. Berkemeyer

■ **Plaintiff's Experts:** Dr. Andrew Duffy, New Haven, Conn. (surgical specialties); Dr. Ira Kodner, St. Louis (surgical specialties); Dr. Stephen Godfrey, St. Louis (pathology).

■ **Defendant's Experts:** Dr. Anthony Senagore, Saginaw, Mich. (surgical specialties); Dr. David Schuval, St. Louis (surgical specialties)

■ **Last Pretrial Demand:** \$600,000

■ **Last Pretrial Offer:** \$400,000

■ **Insurer:** Physicians Professional Indemnity Association

■ **Caption:** Karyn Wynne vs. James Cassat, M.D. and Patients First Health Care LLC

■ **Plaintiff's Attorneys:** Matthew Padberg and Michael Corrigan, Padberg Corrigan & Appelbaum, St. Louis

■ **Defendants' Attorneys:** Ryan J. Gavin and Mandy J. Kamykowski, Greensfelder Hemker & Gale, St. Louis

BY ALAN SCHER ZAGIER

Special to Missouri Lawyers Weekly

A Franklin County jury has sided with a long-time local doctor and his employer in a medical malpractice claim brought by the widow of a 51-year-old man who died in November 2009 after complications from colon surgery.

Karyn Wynne sued Dr. James Cassat, of Washington, and Patients First Health Care in June 2011 in Franklin County



Ryan J. Gavin



Mandy J. Kamykowski

Circuit Court, alleging that the surgeon's errors while operating on Jay Wynne at St. John's Mercy Hospital in Washington caused the patient's death.

According to a copy of the suit, Wynne was admitted to the hospital on Nov. 3, 2009, for an elective procedure to remove the left side of his colon and reattach the ends to treat diverticulitis, a condition caused by inflammation.

Four days later, after complaining of abdominal pain, Wynne was diagnosed with a fluid leak in his abdomen. He had a second surgery to repair heavy damage to his ureter, which appeared to be nearly cut in half. The pain continued, though, and Wynne underwent a third procedure on Nov. 10 to repair another leak from the surgical site. He died four days later from septic shock and renal failure after being transferred to Mercy Hospital St. Louis.

Wynne's widow claimed that Cassat

failed to protect her husband's ureter from damage during the first procedure and compounded his errors by not detecting or properly treating the colon leak.

The case went to trial in late September, with the jury ruling in the defendants' favor on the trial's fourth day. Karyn Wynne was later assessed \$4,007.88 in court costs.

"We felt pretty good about the case the whole way through," said plaintiff's attorney Matthew Padberg, whose expert witnesses included surgeons from Yale University and Washington University in St. Louis. "The evidence went as well as we could have hoped."

"You had a local doctor who's been in the community for 30 years, and a small-town jury reluctant to find fault."

Matthew Padberg, plaintiff's attorney

Attorney Ryan J. Gavin, who represented Cassat and his employer, said the defense was able to provide medical records showing that the surgeon took the necessary precautions, including operating reports from the second procedure that he said showed that Cassat "thoroughly inspected" the damaged area.

Both lawyers agreed that Cassat's well-regarded reputation in the small eastern Missouri town played a role in the jury's verdict.

"You had a local doctor who's been in the community for 30 years, and a small-town jury reluctant to find fault," Padberg said. He added that his client has no plans to appeal the decision. **MO**