

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

February 2014

Statewide Jury Verdict Coverage

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Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

Medical Negligence - A woman undergoing a laparoscopic procedure to correct gastroesophageal reflux disease suffered a perforation of her stomach; when the woman later died of sepsis due to the perforation, her estate blamed her death on her surgeon and the hospital

Estate of Rich v. Tipton Hospital, et al., 06D01-1111-CT-621

Plaintiff: Holly S.C. Wojcik, Barry D. Rooth, and Kelly A. Sheets, *Theodoros & Rooth, P.C.*, Merrillville; Gregory L. Laker and David B. Allen, *Cohen & Malad, LLP.*, Indianapolis

Defense: Peter H. Pogue and Kori L. McOmber, *Schultz & Pogue, LLP.*, Indianapolis, for Tipton Hospital; Michael Roth and Brett T. Clayton, *Eichhorn & Eichhorn, LLP.*, Indianapolis, for Delumpa

Verdict: \$2,500,000 for plaintiff against Tipton Hospital; defense verdict for DeLumpa

County: **Boone**, Superior Court: J. Kincaid (Special Judge), 2-27-13

In the early months of 2007, Karen Rich was suffering from gastroesophageal reflux disease. As treatment for her condition, Rich was scheduled to undergo a laparoscopic Nissen fundoplication at Tipton Hospital in Tipton County. The procedure was performed on 4-24-07 by Dr. Vincent Delumpa, a general surgeon.

Shortly after the surgery, Rich began experiencing severe pain that was constant and persistent even

after she was given intravenous morphine and Versed. The following day she complained of severe pain around the incision and in her upper abdomen.

That same day the nursing staff noted that Rich was tachycardic, her white blood cell count was plummeting, she had an elevated hemoglobin level, and her blood oxygen saturation had dropped. Around mid-morning the nurses called Dr. Delumpa and reported Rich's condition. He ordered her to be moved to the ICU.

Early the next morning, x-rays showed free air in Rich's abdomen. Dr. Delumpa took her back to the operating room and opened her abdomen. He found a large amount of murky gastric fluid and realized he had perforated Rich's abdomen during the original fundoplication.

Dr. Delumpa repaired the perforation and sent Rich back to the ICU on a ventilator. Her condition continued to deteriorate. Rich's heart rate increased and her blood pressure continued to fluctuate. She was ultimately diagnosed with septic shock and transferred by ambulance to the ICU at Riverview Hospital in Noblesville where she died on 4-27-07 – i.e., three days after the surgery.

Rich's estate presented the case to a medical review panel comprised of three general surgeons. They were Dr. Jeffrey Yoder of Fort Wayne, Dr. Michael Boyer of Franklin, and Dr. Mark Shina of Jeffersonville.

The estate was critical of the care Rich had received from Dr. Delumpa

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Case Style _____

Jurisdiction _____ Case Number _____

Trial Judge _____ Date Verdict _____

Verdict _____

For plaintiff _____ (Name, City, Firm)

For defense _____ (Name, City, Firm)

Fact Summary _____

Injury/Damages _____

Submitted by: _____

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disputed the extent of Kadar's claimed injuries. More specifically, defendant explained that the store's snow removal contractor, a company called "Cherry Logistics," had plowed and salted the area at 4:30 am on the day of the incident and again at 5:20 pm.

Furthermore, defendant stated that its store manager had shoveled the sidewalk and applied salt

periodically throughout the day. Thus, defendant had done all it could reasonably be expected to do in order to keep its premises safe.

The case was tried for three days in Crown Point. The jury returned a verdict for Kadar and awarded her damages of \$455,563. The jury went on to find for husband Gene on his consortium claim but awarded him zero damages. The court entered a

judgment that reflected the verdict, and defendant has satisfied it.

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