



Michael N. Stevens

Senior Counsel

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Michael Stevens focuses his practice on the defense of physicians and hospitals facing significant medical malpractice claims. Delving into the facts and the medicine, he finds the kernel of truth around which to build an effective defense. On behalf of one major New York hospital system Michael achieved 19 defense verdicts and has had success with summary judgment motions and appeals. His philosophy is to “listen to the client” and “leave no stone unturned to prove our case.” He has had the pleasure of presenting continuing medical education and continuing legal education courses in the metropolitan area.

Education

- Brooklyn Law School (J.D., 1974)
- Temple University (B.A., 1971)

Bar Admissions

- New York, 1975

Court Admissions

- U.S. Court of Appeals, Second Circuit
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York

Professional Affiliations

- New York State Medical Defense Bar Association

Services

- Medical Malpractice & Health Care

Representative Matters

Defended hospital's general surgeon and pathologist against a claim that a single punch biopsy was mistakenly interpreted and insufficient to justify an esophagectomy. The removal of the esophagus was performed with a stomach pull-up and reconnection, to avert the risk of esophageal cancer. Postoperatively, the esophagus was closely examined but there was not another speck of dysplasia or neoplasia. Claiming a multitude of lifelong complications, the plaintiff's lawyer in summation said that the nurse practitioner who had swiftly put together the surgical team for this service patient was "not an Angel of Mercy but a Judas goat." The jury recognized the surgical team's good faith attempt to follow evidence-based medicine for the benefit of the patient and returned a defense verdict.

Defended hospital and hematologist-oncologist in a wrongful death claim arising from bone marrow transplantation to treat decedent's leukemia. Decedent died five months after the bone marrow transplantation – on the morning of a scheduled liver transplantation – from persistent liver failure and multiple complications. Decedent had opted for transplantation rather than entering a study for a new drug, which later became the gold standard of treatment. Plaintiff claimed poor donor selection for the bone marrow transplant, failure to recommend the new drug, delayed liver transplantation, improper autoimmune treatment and failure to attend the patient when he was found unresponsive. After eight years of litigation, one mistrial, two jury selections, and a successful emergency application to the Appellate Division to bar evidence of later-acquired knowledge of the efficacy of the new drug, plaintiff lowered the demand from \$4.5 million to \$950,000. Settlement overtures were resisted. During the third jury selection in Bronx County, NY, the action was discontinued with no payment.

Defended internist against claims that he failed to appreciate a patient's signs of appendicitis and a surgical abdomen by sending him home on antibiotics when he presented with complaints of severe abdominal pain. Four days later, with worsened symptoms, internist allegedly concluded that plaintiff suffered from Crohn's disease despite an emergent radiology opinion favoring appendicitis. Plaintiff sustained a ruptured appendix with severe infection and a protracted hospitalization. A New York County, NY, jury returned a verdict for the defense based on evidence that the emergent radiology opinion was not released on the date claimed and that plaintiff's course was unchanged by the delay.

Defended cardiologist against claims of failure to diagnose tamponade resulting in plaintiff's death. Plaintiff, who had ischemic heart disease, was sent emergently to his cardiologist due to increasing shortness of breath. The echo taken in the cardiologist's office was interpreted as showing pericardial effusion but not tamponade, and plaintiff was sent home. Plaintiff went into cardiac arrest in the cab on the way home from the cardiologist's office and was taken to an emergency room where tamponade was diagnosed by echocardiogram and surgery was performed to decompress the tamponade. Plaintiff died eight days later. The defense argued that plaintiff's shortness of breath was subjective, the effusion was not emergent, tamponade did not exist, the echo at the

hospital was misread, and plaintiff's cardiac arrest was due to an unforeseeable sudden arrhythmia. A Kings County, NY, jury returned a verdict for the defense.

Defended a vascular surgeon who performed endovascular laser therapy for varicose veins after which a 2½ inch plastic tube, a retained catheter segment, was found lodged in plaintiff's chest in the pulmonary circulation. Plaintiff claimed that the catheter would migrate and cause bleeding, abscess, infection and possibly death. The insurer's representative in court advised the defendant to settle and the court felt that the claim had been "convincingly proven." The jury believed that defendant was deserving of the benefit of the doubt, due in part to her devoted treatment of the plaintiff over the course of nine years and her overall accomplishments in medicine. The jury returned a unanimous defense verdict after only 15 minutes of deliberation.

Defended hospital against allegations that signs of peritonitis warranted earlier surgical intervention in a patient with liver failure who became symptomatic shortly after a manual reduction of a non-reducible hernia. Conservative treatment led to overwhelming sepsis, re-admission, emergency surgery, four additional abdominal surgical procedures and death. The defense argued that the goal of the manual reduction was to relieve the small bowel obstruction while avoiding the high perioperative surgical mortality associated with a "Child B" cirrhotic. Case settled favorably for defendant after a full trial.

Defended hospital in high-profile lawsuit arising from the death of a patient whose entire intestinal tract was removed due to an invasive but non-malignant tumor in the hopes that another intestinal tract could be transplanted at a later date. The dying patient was featured on a Bill Moyers public television broadcast, which included a conversation between two of the attending physicians, a conversation that was videotaped and broadcast, with one of the doctors lamenting that no one was in charge of this patient. After serving separate motions for summary judgment on behalf of each named defendant, the case was discontinued.

PROFESSIONAL/COMMUNITY ACTIVITIES

Michael presents continuing legal education (CLE) and continuing medical education (CME) programs to his medical clients and to the firm's attorneys. For example, he presented a CME titled "Malpractice Litigation and the Importance of Documentation" to a hospital's thoracic and cardiothoracic surgeons and staff. The presentation included examples of trial situations as well as two animations that were successfully used by him in a cardiovascular medical malpractice trial. Michael also recently presented a CLE program to the firm's trial lawyers entitled "Best Practices Using Technology" in which he discussed the use of presentation software, images and animations in the courtroom.

Active in community organizations, Michael is a founding director of the Children's Dream Foundation, which promotes advances in children's health care in the Hudson Valley region.