

KAREN ADAMS and KANDI Y.  
WINDER, Co-Administrators of the  
Estate of DAVID F. ADAMS and  
KAREN ADAMS, Individually,  
Plaintiffs

vs.

PETER B. TREVOULEDES, M.D., EAST  
LYCOMING SURGICAL ASSOCIATES,  
DILIP K. ELANGBAUM, M.D.,  
PENN STATE GEISINGER MEDICAL  
GROUP, MANUEL V. MORENO, M.D.,  
ERIC MELLENCAMP, M.D.,  
SUSQUEHANNA IMAGING  
ASSOCIATES, INC., MUNCY VALLEY  
HOSPITAL and SUSQUEHANNA  
HEALTH SYSTEMS,  
Defendants

: IN THE COURT OF COMMON PLEAS OF  
: LYCOMING COUNTY, PENNSYLVANIA  
: JURY TRIAL DEMANDED  
:  
:  
:

: NO. 01-01,767  
: CIVIL ACTION

: MOTION IN LIMINE

*Date: July 28, 2004*

**OPINION and ORDER**

Before the Court is the Motion in Limine of Defendants Eric Mellencamp, M.D. and Susquehanna Imaging Associates, Inc., filed June 11, 2004, which seeks to preclude from being introduced at trial the testimony of Plaintiffs' radiology expert, Anna S. Lev-Toaff, M.D., that would relate to any alleged negligent interpretation by Dr. Mellencamp of a CT Scan. In this medical malpractice lawsuit, Plaintiffs' Second Amended Complaint alleges that Dr. Mellencamp interpreted a CT Scan of David Adams, the decedent, on October 29, 1999. Dr. Trevoloudes had ordered the CT Scan of the abdomen and pelvis, un-enhanced. As set forth in Paragraph 29 of the Second Amended Complaint, it is alleged that Dr. Mellencamp interpreted the CT Scan as normal. It is also asserted that following further treatment by others and hospitalization Mr. Adams was pronounced dead on October 31, 1999 following a code

occurring in the hospital operating room. The Second Amended Complaint further alleges that the autopsy of Mr. Adams indicated the following: a diagnosis of appendix, acute appendicitis, ruptured; various heart ailments; in the small bowel cecum, early ischemia and early peritonitis; a kidney with probable small infarcts; and a liver with chronic passive congestion. The Second Amended Complaint asserts that the cause of death was determined to be a ruptured appendicitis. Plaintiffs' Second Amended Complaint, ¶¶ 72-75.

Count 5 of the Second Amended Complaint asserts the negligence claim against Dr. Mellencamp. Paragraph 92 incorporates the preceding paragraphs of the Second Amended Complaint, including the factual allegations, into the Count. Paragraph 93 alleges that Dr. Mellencamp holds himself out as a healthcare provider with skill and knowledge in his field and specialty. The allegations concerning how Dr. Mellencamp fell below the standard of care are made in Paragraph 94. It states as follows:

Defendant Dr. Mellencamp failed to provide reasonable healthcare under the circumstances as follows:

94.1 Failure to recommend additional diagnostic testing in light of a non-diagnostic abdominal CT scan.

94.2 Failure to ascertain a differential diagnosis of bowel necrosis.

Plaintiffs' Second Amended Complaint, ¶94.

The specific expert report at issue was dated April 13, 2004 and timely supplied to Defendants. In the second paragraph of the report, it states that the CT Scan performed by Dr. Mellencamp on October 29, 1999 was not inconclusive or non-diagnostic, but rather revealed areas of the abdomen in which it could have been determined that there was an acutely

inflamed appendix. It is further asserted in the expert report that the CT findings are most consistent with acute appendicitis.

Dr. Mellencamp and Susquehanna Imaging Associates, Inc. seek to preclude the testimony of Dr. Lev-Toaff, which opines that the interpretation of the CT Scan was negligent, because it asserts a new cause of action. This Court does not believe such testimony asserts a new cause of action, but rather it is an amplification of the negligence allegations made against Dr. Mellencamp. The gravamen of the claim against Dr. Mellencamp is that as an expert he was to interpret the CT Scan of October 29, 1999, which was performed in order to ascertain the cause of Mr. Adams' abdominal malady. Dr. Mellencamp's report is asserted by Plaintiffs to say, and apparently acknowledged by Dr. Mellencamp, that the CT Scan was interpreted as normal, that is, that there were no diagnostic findings revealed by the CT Scan.

Plaintiffs have produced expert testimony to support their contention under Paragraph 94.1 that in the face of such a non-diagnostic CT Scan and given the other signs and symptoms of which Dr. Mellencamp was aware he should have recommended additional diagnostic testing. In Paragraph 94.2, they assert that Dr. Mellencamp was negligent because of a failure to ascertain a differential diagnosis of bowel necrosis. Overall, the Second Amended Complaint asserts that at the time Mr. Adams was suffering from acute appendicitis and that the appendix ruptured resulting in sepsis, which caused the bowel necrosis and contributed to the his death. It is clear that the Second Amended Complaint put Dr. Mellencamp on notice that in his interpretation of the CT Scan he erred in failing to ascertain a differential diagnosis of bowel necrosis.

What is at issue under Paragraph 94.2 is whether Dr. Mellencamp's reading of the CT Scan would have resulted in him proceeding to ascertain the appropriate differential diagnosis of bowel necrosis. Plaintiffs have flushed out this theory with the report of Dr. Lev-Toaff stating that the CT Scan, rather than being normal as reported by Dr. Mellencamp, in fact shows appendicitis, which would have led to ascertaining an appropriate differential diagnosis of bowel necrosis. This alleged misinterpretation by Dr. Mellencamp is but a mere amplification of the allegation that he did not properly diagnose bowel necrosis. As such, it does not raise a new cause of action. The Second Amended Complaint has raised the issue as to whether or not Dr. Mellencamp properly interpreted and reacted to the CT Scan. Therefore, it is permissible to allow Plaintiffs to present the expert testimony of Dr. Lev-Toaff on this issue.

Accordingly, Dr. Mellencamp and Susquehanna Imaging Associates, Inc.'s Motion in Limine is denied.

**ORDER**

The Motion in Limine of Defendants Eric Mellencamp, M.D. and Susquehanna Imaging Associates, Inc. to preclude negligent interpretation testimony of Plaintiffs' radiology expert, Anna S. Lev-Toaff, M.D., which was filed June 11, 2004, is DENIED.

BY THE COURT:

William S. Kieser, Judge

cc: Clifford A. Rieders, Esquire  
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Christian Kalas, Law Clerk  
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