

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MILTON MEYER, Individually and as	:	NO. 04-00,182
Administrator of the Estate of Kurt Meyer,	:	
and BRENNAN and RYLI MEYER, the	:	
decedent's minor children,	:	
Plaintiffs	:	
	:	
vs.	:	
	:	CIVIL ACTION - LAW
SUSQUEHANNA HEALTH SYSTEM,	:	
WILLIAMSPORT HOSPITAL &	:	
MEDICAL CENTER, and BHUPINDER	:	
DATTA, M.D.,	:	
Defendants	:	Summary Judgment

**OPINION AND ORDER**

Before the Court in this medical malpractice action are two motions for summary judgment, one filed by Dr. Datta on February 18, 2005, and one filed by Susquehanna Health System and the Williamsport Hospital on February 23, 2005. Argument on the motions was heard April 1, 2005.

According to Plaintiffs' First Amended Complaint, Plaintiffs' decedent presented to the emergency room of the Williamsport Hospital on December 21, 2002, complaining of shortness of breath on exertion. Decedent was seen by Dr. Datta, who ordered an arterial blood gas specimen. The test confirmed decedent's oxygen level was low. Dr. Datta noted the possibility that decedent was suffering from a pulmonary embolism. Decedent was discharged from the hospital with a diagnosis of pneumonia. Decedent died on December 26, 2002, from multiple pulmonary emboli.

According to the First Amended Complaint, Dr. Datta was negligent in four respects:

1. Violating his duty to provide adequate patient care, in that he failed to accurately diagnose and treat the patient's pulmonary emboli;
2. Failing to make sure that Decedent would have reasonable follow-up care to determine the exact diagnosis and proper treatment of Decedent's illness;
3. Failure to have Decedent evaluated by another health care provider who specializes in the diagnosis and treatment of embolism;

4. Failing to adequately evaluate the decedent's condition as stated in the Complaint and prescribe the corresponding treatment and precautions.

In his motion for summary judgment, Dr. Datta contends Plaintiffs cannot make out a prima facie case of negligence against him as the evidence indicates his evaluation of Decedent began that evening at 6:25 p.m. and ended at 7:00 p.m., only 35 minutes later, and before the results of any of the initial tests came back. At that time, Decedent's care was transferred to another physician. Dr. Datta did not have the opportunity to review the test results, to order any additional tests, to complete the evaluation or to make a final diagnosis or participate in the decision to discharge Decedent.

Plaintiffs' initial expert report, dated September 18, 2003, finds the treatment of decedent "below the standard of care" in failing to order certain other tests once the arterial blood gas specimen confirmed that the patient's oxygen level was low, in discharging the patient from the emergency department without admitting him to the hospital, and in discharging him with instructions to "follow up with a physician" knowing that he had failed to follow such instructions in the past. It does appear that none of these alleged deficiencies can be leveled against Dr. Datta. Plaintiffs argue, however, that Dr. Datta was nevertheless negligent in failing to immediately admit Decedent to the hospital. While it may be possible to read such an allegation into the First Amended Complaint (the language of the Complaint is certainly not clear in this regard), the evidence adduced by Plaintiffs fails to support such an allegation. Plaintiffs' supplemental expert report, dated March 2, 2005, does opine that Dr. Datta should have recognized that Decedent required immediate hospitalization based on the information available to him at the time of the initial evaluation, but then apparently considers available to Dr. Datta the results of the arterial blood gas specimen which showed the low oxygen level even though Dr. Datta indicates in his affidavit that he did not have the opportunity to review the results of the initial tests prior to going off duty. Even more important, however, is the lack of evidence to establish any causal link. Plaintiffs' expert states that admission to the hospital "would have allowed careful and close observation of the patient and evaluation by other physicians, ultimately leading to the correct diagnosis and treatment." There is nothing to indicate that the patient's remaining in the emergency room rather than

being admitted to the hospital during those first thirty-five minutes had anything at all to do with the ultimate outcome, and in light of the expert's statement that the low oxygen level test triggered the need for admission, the Court fails to see how such could indeed be the case. While the Court is certainly mindful of the anguish felt by decedent's family, there is simply no basis in fact or law to support the claim of negligence brought against Dr. Datta in this matter. Summary judgment in his favor is thus appropriate.

Inasmuch as the claims against Susquehanna Health System and the Williamsport Hospital arise solely out of the claim against Dr. Datta, summary judgment in their favor is also appropriate.

**ORDER**

AND NOW, this 6<sup>th</sup> day of April 2005, for the foregoing reasons, the motions for summary judgment are hereby granted. Judgment is hereby entered in favor of all Defendants and against all Plaintiffs.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Domenick DiCiccio, Jr., Esq.  
230 South Broad Street, Suite 800  
Philadelphia, PA 19102  
Steven Costello, Esq.  
1245 South Cedar Crest Blvd., Suite 300  
Allentown, PA 18103  
David Bahl, Esq.  
Gary Weber, Esq.  
Hon. Dudley Anderson