

**MEDICAL MALPRACTICE--OMISSION BY RADIOLOGIST ALLEGEDLY LED TO DEATH**

(GGG 15/5) *Estate of Nicole Yerkovich, deceased v Dr. Vladislav Gorengaut, Suburban Radiologists S.C.* 09L-7221 Tried Oct. 27-Nov. 10, 2014 (12F)

- Verdict: Deadlock (jury was hung 11 to 1 in favor of pltf after deliberating 12.5 hours over two days). The case later settled.
- Judge: Michael R. Panter (IL Cook-Law)
- Pltf Attys: Craig P. Mannarino and Amanda L. Brasfield of *Kralovec, Jambois* Demand: \$2,000,000 policy Asked: \$9,500,000
- Deft Attys: Michael A. Code and Simon J. Hill of *Lewis & Gellen* for both defts (ISMIE) Offer: none
- Pltf Medl: Dr. Michael J. Schied (Ob/Gyn), Dr. Bernadette B. Gniadecki, D.O. (Emergency Medicine), Dr. Mary A. Horan (Ob/Gyn), Dr. Colleen A. Granger Hagen (General Surgeon), Dr. Jody Y. Lin (Ob/Gyn) and Dr. Michael W. Kaufman (Pathologist)
- Deft Medl: Dr. Padma S. Iyer (Radiologist) and Dr. Agnieszka U. Piotrowski (Pathologist) for both defts
- Pltf Experts: Dr. Joseph L. Skeens (Radiologist), Dr. Jesse Hall (Critical Care) and Dr. Richard M. Vazquez (General Surgeon)
- Deft Experts: Dr. Mickey B. Jester, D.O., 333 N. Madison Street, Suite 113, Joliet, IL (815-741-7200) (Radiologist), Dr. John Segreti (Infectious Disease) and Dr. David Ondrula (Colorectal Surgeon) for both defts.

On the night of Jan. 8, 2008, Nicole Yerkovich (F-35) was taken by ambulance to the emergency room at LaGrange Memorial Hospital due to severe abdominal pain and nausea. Dr. Gniadecki, an ER physician, ordered a contrast CT scan of her abdomen and pelvis to determine if she suffered from appendicitis. The CT scan was initially read by a teleradiologist who reported she could not visualize the appendix and therefore could not rule out appendicitis, recommended obtaining delayed images to get better visualizations of the appendix, and noted moderate amount of free fluid in the pelvis which could be due to a ruptured cyst. The following morning, deft in-house radiologist Dr. Gorengaut reviewed the same CT scan and reported there were no definite findings to suggest appendicitis, there were ascites which may be due to peritonitis, and there could be a gynecological issue such as a ruptured hemorrhagic ovarian cyst. Based on deft's oral report, Dr. Gniadecki cancelled the delayed CT scan and instead admitted Nicole to gynecology and ordered a pelvic ultrasound. Deft read the ultrasound and reported there was echogenic fluid, most likely representing blood from a ruptured ovarian cyst. Thereafter, Dr. Lin, the patient's initial gynecologist, ordered lab work which showed a normal overall WBC with left shift and drop in platelets; Nicole also had tachycardia. She was given a choice between a conservative treatment plan, involving bed rest and pain control, or a diagnostic laparoscopy. She chose the conservative plan, but her abdominal pain continued. On Jan. 11, Dr. Lin prepared a discharge summary despite Nicole's significant pain and increasing tachycardia, but her partner cancelled the plan after Nicole's parents objected, and instead scheduled an exploratory laparoscopy. As Nicole was being prepared for surgery, she suffered a sudden cardiovascular collapse. During 20 minutes of CPR, surgeons opened her abdomen to find a liter of foul-smelling pus, found no source for the intra-abdominal infection, and removed the appendix (which looked normal) and right ovary. After surgery, Nicole was found to have irreversible brain damage from the cardiovascular collapse and died a week later. Since the unruptured appendix had no pathological evidence of intrinsic appendicitis, the autopsy pathologist concluded bacteria had transmigrated through the wall of the appendix and started the infection. The estate alleged Dr. Gorengaut failed to report all of the significant CT findings and claimed if he had reported appendicitis could not be ruled out, Nicole would have been admitted to general surgery and been operated on before her infection progressed to septic shock. The defense contended Dr. Gorengaut properly interpreted the imaging results, his CT report complied with the standard of care, it was the treating gynecologist's responsibility to recognize the early indicators of infection and respond accordingly, the gynecologist was the sole proximate cause of death, and the appendix was not the source of the infection.

SUMMARY SINCE SEPT. 1, 2014:	<u>GUILTY:</u>	<u>DL:</u>	<u>NG:</u>	<u>AWARDED:</u>	<u>OFFERED:</u>	<u>PLTF PCT:</u>
Law Division Circ Ct	18	2	42	\$21,512,478	\$8,653,082	31.3%
U.S. Dist Ct	1	0	1	\$75,000	\$270,000	<u>LAST WK:</u>
1st Munic Dist Circ Ct	0	0	2	\$0	\$0	30.2%
2nd-6th Munic Dist Circ Ct	2	0	1	\$33,503	\$69,500	<u>AVG VERD:</u>
<b>TOTALS</b>	<b>21</b>	<b>2</b>	<b>46</b>	<b>\$21,620,981</b>	<b>\$8,992,582</b>	<b>\$1,029,571</b>
Totals Jan. 24, 2014	47	1	31	\$55,826,610	\$11,389,420	\$1,187,800
Law Division Jan. 24, 2014	44	0	27	\$55,487,374	\$11,287,420	.....