

DAILY LOCAL NEWS

By MICHAEL P. RELAHAN

Sunday, December 25, 2011

Jury sets \$805,571 penalty for death at county hospital

WEST CHESTER — The parents of a former borough bar owner who died in Chester County Hospital after being admitted there complaining of stomach pain have been awarded more than \$800,000 in damages by a Common Pleas Court jury for his death.

On Monday, the jury of eight women and four men unanimously returned a verdict against the hospital and the doctor who was attending John F. McGinley III, a 35-year-old West Goshen man who died June 25, 2007.

According to the attorney representing John F. McGinley II and Carol McGinley of Cochranville, McGinley's parents, the jury awarded \$305,571.01 for his wrongful death — including \$5571.01 in funeral expenses — and \$500,000 for loss of future earnings for a total of \$805,571.01.

The plaintiffs contended that McGinley, who was part-owner of the former 15 North bar on North Walnut Street in West Chester, was given too much of a painkiller and that it exacerbated his existing sleep apnea, eventually sending him into respiratory arrest.

"Obviously the family is very pleased with the verdict," said **Michael Trunk** of the Philadelphia law firm of Kline & Specter. "They have believed since the time of their son's death that his passing was the result of negligence by the hospital."

The jury in Judge Robert Shenkin's courtroom returned its verdict late Monday after more than 14 hours of deliberations in the trial that began on Dec. 8. Trunk said it was unusual for a jury in Chester County to return such a sizable award in a medical malpractice lawsuit.

"Trying a case like this you are faced with a number of challenges in Chester County," he said in an interview following the verdict. "But the jurors listened extremely attentively, and I am satisfied they understood what happened here. They got the message."

The jury found that the hospital and its nursing staff was 65 percent responsible for McGinley's death, and the attending physician, Dr. Joseph Trojak, was 35 percent responsible.

Benjamin Post, of the Post & Post law firm in Berwyn, who represented the hospital at trial, said his client anticipated appealing the verdict.

"We continue to believe that Dr. Trojak and the nurses provided excellent care to Mr. McGinley," Post said in a statement. "The nurses were in his room very frequently. Mr. McGinley's vital signs were repeated, and they improved. In addition, we continue to believe that neither Dr. Trojak nor the nurses caused Mr. McGinley any harm."

Attempts to reach attorney James P. Kilcoyne, who represented Trojak at the trial, were unsuccessful.

In the scenario described by Trunk, McGinley was admitted to the hospital on June 22, 2007, complaining of pain in his lower abdomen. He was placed under Trojak's care, and the doctor began ordering a set of tests to determine what the source of the pain was.

Trojok prescribed the narcotic Dilaudid to moderate McGinley's pain, saying that it should be given to him whenever he complained of pain.

However, Trunk said, there was difficulty in having the nurses deliver the medication when McGinley requested it, so the prescription was changed on June 23 to a fixed dosage on regular intervals — every three hours.

"That was a recipe for disaster with a patient who had severe obstructed sleep apnea," as McGinley did, Trunk said. The combination of the drug and the apnea "severely compromised his respiration" and at 8 a.m. on June 25 he went into respiratory arrest. An emergency team attempted to revive him, but he died several hours later.

Trunk said that before his death, McGinley had sold his interest in 15 North, and had gotten engaged. He had plans to return to college and get a degree as a physical therapist. "He was a well-liked guy," Trunk said. "His father said he would walk through West Chester with him, and everybody knew him."