



Rivera v. Valley Hospital (N.J. S. Ct.)

Topics Covered: Professional Liability, Tort Reform

Issue

The issue in this case is whether the trial judge erred in allowing a claim for punitive damages in a medical malpractice action.

AMA Interest

Medical liability reform is a high legislative priority for the AMA, and the AMA opposes lawsuit abuse against physicians.

Case Summary

Dr. Howard Jones performed a partial hysterectomy on Viviana Ruscitto to remove fibroid tissue from her uterus. Dr. Jones used a power morcellator to cut the tissue. The morcellator, an FDA-approved device, was designed to cut up the tissue for easy removal, with fewer complications and speedier recovery than in a standard hysterectomy.

After Ms. Ruscitto's surgery, a biopsy revealed that the specimen removed was cancerous. Ms. Ruscitto underwent various other treatments, including chemotherapy, but to no avail as the cancer continued to spread. Her condition never improved, and she ultimately died.

Ms. Ruscitto's sister filed the complaint on behalf of Ms. Ruscitto's estate. She claimed that the morcellator was experimental, and its use had spread the cancer and thus hastened the patient's death. She further claimed that Dr. Jones had failed to inform Ms. Ruscitto about the risks associated with the morcellator. The complaint sought both compensatory and punitive damages.

After discovery, the defendants moved to strike the request for punitive damages. The trial court denied the motion. Defendants then petitioned the Appellate Division for an interlocutory appeal, but the Appellate Court denied the request. Defendants are now asking the New Jersey Supreme Court to review the denial of the motion to dismiss the claim for punitive damages.

Litigation Center Involvement

The Litigation Center joined an *amicus* brief with the Medical Society of New Jersey in support of the defendants.

Supreme Court of New Jersey Brief