



# Sampson v. Surgery Center of Peoria, 491 P.3d 1115 (Ariz. 2021)

Topics Covered: Abusive Litigation Against Physicians

## Outcome: Favorable

### Issue

The issue in this case was whether the Arizona Court of Appeals improperly lowered the standard for proof of proximate cause in a medical malpractice case.

### AMA Interest

The AMA supports efforts to curb lawsuit abuse against physicians.

### Case Summary

Four-year-old Amaré Burks went to the Surgery Center of Peoria for a tonsillectomy and adenoidectomy to address his obstructive sleep apnea. The surgery proceeded routinely, and Burks was placed in the post-operative anesthesia care unit (PACU). After 61 minutes in the PACU, Burks was discharged to the care of his mother, Michelle Sampson.

Sampson put Burks to bed when they got home. Approximately two hours after discharge, she went to check on him and discovered that he had stopped breathing. Emergency personnel were unable to resuscitate him.

Sampson brought a wrongful death action against multiple defendants, including the surgery center, the anesthesiologist, and the anesthesiologist's employer. The defendants moved for summary judgment.

The crux of Sampson's case was expert testimony by a pediatric anesthesiologist. The expert testified that the standard of care required the surgery center to keep Burks in the PACU for a longer period after surgery. However, the trial court found that even if the defendants had breached the standard of care, Sampson had not shown that their failure was the proximate cause of Burks's death. It granted summary judgment for the defendants.

Sampson appealed the decision. The appellate court reversed the trial court's decision with respect to the surgery center. It found that a jury should be permitted to infer whether the breach of the standard of care obviated the need for separate evidence on proximate cause. The surgery center petitioned the Arizona Supreme Court for review.

On July 30, 2021, the Arizona Supreme Court ruled that a jury is not permitted to infer causation in a medical negligence case. The decision reversing the court of appeals was consistent with the Litigation Center *amicus* brief.

## **Litigation Center Involvement**

The Litigation Center joined with the Arizona Medical Association in an *amicus* brief to support the surgery center in the Arizona Supreme Court.

Arizona Supreme Court Brief in Support of Petition

Arizona Supreme Court Merits Brief