



# Yanakos v. UPMC (Pa. S. Ct.)

Topics Covered: Professional Liability, Tort Reform

## Outcome: Unfavorable

### Issue

The issue in this case was whether the Pennsylvania statute of repose, which cuts off most medical malpractice claims after seven years, violates the Pennsylvania constitutional provision that anyone who suffers an injury “shall have remedy by due course of law.”

### AMA Interest

The AMA opposes abusive lawsuits against physicians.

### Case Summary

Susan Yanakos suffers from a genetic condition called Alpha-1 Antitrypsin Deficiency (AATD). Patients with AATD do not produce enough Alpha-1 Antitrypsin, a protein synthesized in the liver that protects the lungs. In 2003, one of Susan’s physicians, Dr. Amadeo Marcos, advised her that she needed a liver transplant due to the progression of her AATD. Her son, Christopher, volunteered to donate a lobe of his liver to his mother.

Christopher was evaluated to determine his suitability as a liver donor. One of the laboratory tests allegedly showed that he had AATD and therefore was unsuitable. Unfortunately, Christopher was not informed of the test results. Consequently, a portion of Christopher’s liver was removed and transplanted into Susan.

More than twelve years later, Christopher, Susan, and Susan’s husband sued the University of Pittsburgh Medical Center and various physicians on account of the faulty transplant. The Plaintiffs alleged that they did not discover defendants’ negligence until eleven years after the transplant surgery, when additional testing revealed that Susan still had AATD, which the transplant should have eliminated.

In their answer to the plaintiffs’ complaint, defendants argued that the seven-year statute of repose barred the claims. The trial court concluded that it was bound by the statute and granted judgment to the defendants. The Pennsylvania Superior Court affirmed the lower court judgment. However, the plaintiffs then appealed to the Pennsylvania Supreme Court, which held the statute of repose unconstitutional and reversed the two lower courts.

The defendants then sought a reargument from the Pennsylvania Supreme Court, but this request was denied.

## **Litigation Center Involvement**

The Litigation Center, along with the Pennsylvania Medical Society, sought leave to file an *amicus* brief in the Pennsylvania Supreme Court on behalf of the defendants and supporting the constitutionality of the statute of repose.

Pennsylvania Supreme Court Brief