

# Chicago Daily Law Bulletin®

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## A 12-day defensive hot streak

### Swanson, Martin & Bell prevails in string of four medical-malpractice suits

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A law firm landed four favorable defense verdicts in an 12-day span, protecting two local hospitals and two physicians in different medical-malpractice cases in Cook and McHenry counties.

Attorneys from Swanson, Martin & Bell LLP said they knew they would have a busy few weeks as trial schedules finalized in October, but they didn't expect so many cases to end in such rapid order.

"It was serendipitous," said Joseph P. Switzer, a partner who handled one of the cases.

The first verdict came on Oct. 24 in McHenry County Circuit Court, in a case filed against Centegra Hospital in McHenry.

In that lawsuit, first filed in 2010 in Cook County Circuit Court then transferred in 2011, a 48-year-old patient's estate alleged she went to the hospital with signs and symptoms of hyperthyroidism, then died two days after she was discharged.

During a trial that lasted about two weeks before McHenry County Circuit Judge Michael T. Caldwell, Swanson, Martin & Bell partner Aiju C. Thevatheril and associate Megan

E. Schneider contended the patient's death was from a sudden cardiac incident.

"The jury didn't buy their causation argument," Thevatheril said.

He said the plaintiff asked the jury to award more than \$7 million in damages.

Christopher T. Hurley, a partner at Hurley, McKenna & Mertz P.C. who represented the plaintiff in the case, said his client entered into a high-low agreement with a physician — who wasn't represented by Swanson, Martin & Bell — in the suit and will receive the low amount.

The case is *Rickey Jensen v. Namburu V. Ramana Raji, et al.*, No. 11 LA 14.

Three days later at the Daley Center, Switzer and associate Sarah A. Ferrill's client, a neurologist, received a not-liable verdict in a case in which the plaintiff requested \$10.35 million from the jury.

In that case, the plaintiff filed her complaint in 2008 following a cardiac catheterization procedure in December 2006 at Advocate Christ Hospital Medical Center in Oak Lawn.

Shortly after the procedure, the plaintiff showed signs of a stroke. The doctor ordered a scan and then transferred her to the University of Illinois Medical Center.

In her complaint, the plaintiff alleged that the neurologist failed to order a specific form of therapy and delayed treatment by several hours in transferring her to a second hospital.

Switzer said he and the other defendants' attorneys presented expert witness testimony showing the treatment followed care to follow, Switzer said. "The doctor made a good, reasoned judgment," he said. "And we were fortunate to have co-defendants who were ably represented."

The type of stroke was rare and did not have a known standard of care to follow, Switzer said.

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The jury returned the verdict on Oct. 29. The plaintiff was represented by Bradley M. Cosgrove and Sarah F. King of Clifford Law Offices. Cosgrove did not respond to a request for comment.

The case, which was presided over by Cook County Associate Judge Elizabeth M. Budzinski, is *Preme Schwartz, et al., v. Advocate Christ Hospital & Medical Center et al.*, No. 08 L 13968.

On Oct. 31, in Cook County Circuit Judge Clare McWilliams' courtroom, Swanson, Martin & Bell partner Kevin T. Martin and associate Megan E. Donohue won a defense verdict on behalf of an orthopedic surgeon.

The plaintiff had surgery on his shoulder following a work injury, and as part of the operation, a nerve to one of his biceps was severed.

Martin said it was only the second case in his 47 years of practice he defended against a *res ipsa loquitor* theory — an argument that the injury speaks for itself.

"It's the defense's burden to prove it didn't happen," he said. Martin and Donohue brought

in an expert witness who testified that the severed nerve was a reasonable risk for the particular operation.

The jury agreed. The plaintiff, represented by Robert J. Napleton of Matherway & Napleton LLP, had asked for \$1.4 million in damages. He said he is filing a motion for rehearing today.

The case is *Kenneth Strzelczyk v. Preston Wolin, et al.*, No. 12 L 3821.

The fourth verdict arrived Nov. 4 in a wrongful-death case involving a 2-year-old girl at Loyola University Medical Center in Maywood.

The girl died in the hours following a pacemaker replacement in February 2012. The parents alleged the hospital was negligent, and they also included claims of emotional distress.

But the hospital argued there was no reckless conduct as part of the girl's treatment or in the way her body was released to the funeral home. The jury agreed.

"It was a very emotional element," said Patricia S. Kocour, a partner at Swanson, Martin & Bell. "But they overcame the emotional thing and followed the law."

The plaintiff was represented by Keith L. Davidson of the Law Offices of Keith L. Davidson.

He said he plans to file a post-trial motion. The jury was asked to award \$7 million.

Loyola was also represented by Swanson, Martin & Bell associate Shera D. Wiegler.

The case is *Lisa Eid et al., v. Loyola University Medical Center et al.*, No. 13 L 975.