



And The Defense Wins

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DRI members [Jill Steinberg](#) and [Chad Graddy](#) of Baker, Donelson, Bearman, Caldwell & Berkowitz PC in Memphis, Tennessee, obtained a verdict for the defense in a medical malpractice wrongful death jury trial in Memphis, Shelby County, Tennessee Circuit Court. Plaintiff's decedent was a 40-year-old woman who had previously lost approximately 100 pounds after gastric bypass surgery. She then sought plastic surgery to remove the excess skin caused by the weight loss. The plaintiff filed suit against an internal medicine physician and his group alleging that the decedent bled to death after abdominoplasty and beltplasty surgery (which removed 13.5 pounds of tissue and fat) due to an overdose of Lovenox, which was prescribed to prevent DVT post-surgery. The surgeon who performed the surgery on an outpatient basis was not sued.

The prophylactic Lovenox prescription given by the defendant physician was 60 mg and was based upon the patient's age, weight, prior smoking history, high risk surgery, and anticipated painful recovery, which would not allow her to ambulate. The plaintiff argued that the only appropriate dose was 40 mg, basing the contention on the PDR, which recommends 40 mg for patients undergoing abdominal surgery. The plaintiff further contended that the difference between 40 mg and 60 mg of Lovenox was the difference between life and death.

The defense showed that the Lovenox dose was appropriate because of the patient's risk factors and obesity. Defense counsel also contended that the decedent was showing signs and symptoms of bleeding even before she received Lovenox, and her death was caused by a coagulopathy unrelated to Lovenox. Defense experts included a hematologist and Pharm.D. from Vanderbilt.

After a two-week trial, the jury deliberated about 45 minutes before returning a verdict in favor of the defendant.

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