

the Quarterly Dose

Your Health Care Litigation Prescription



Congratulations to
Justin F. Johnson
who was recognized
as 2027 “Lawyer of the Year”
in his jurisdiction for Medical
Malpractice Law – Defendants.

[Read more on page 13!](#)

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ALL RISE

Recent Victories and Success Stories



Gary Samms (King of Prussia) secured a non-suit in a hotly-contested medical malpractice matter with a pre-trial demand of \$7 million. The granting of a non-suit is a rarity at trial. The case involved the death of a neurologist following complications from a green light procedure for prostate issues. The plaintiffs contended thermal injury occurred, as well as a bladder perforation, infection, bladder removal and, ultimately, death. They argued that the hospital did not act appropriately and failed to have appropriate policies and procedures regarding the use of warm saline during the procedure. Their corporate and direct negligence theories failed after Gary's cross-examination of their expert on voir dire, which revealed that the expert was not qualified to offer opinions on hospital policies and procedures. This development built on Gary's earlier successful cross-examinations of the pathologist involved in the autopsy and the urologist who performed the procedure. The victory was in part due to the excellent work of **Tyler Price** (Philadelphia) and paralegal **Nancy Farnen** (Philadelphia).

Gary also prevailed in a binding high-low arbitration regarding the death of a patient suffering from C-diff after a surgical procedure. His evaluation of the records and experts was significant to the success.



Maura Waters Brady (Roseland) obtained a unanimous defense verdict on behalf of a defendant anesthesiologist following a six-week trial in Hudson County, New Jersey. The plaintiff, a 43-year-old woman, presented to the hospital in septic shock seven days after undergoing a robotic hysterectomy and required emergency surgery. She alleged that she aspirated during intubation, causing complications that ultimately resulted in lower extremity gangrene and the loss of all 10 toes. The defense disputed that aspiration occurred, pointing to the patient's stable vital signs and end-tidal CO₂ readings during the procedure, and argued that the toe amputations were caused by the severe sepsis she had upon arrival at the hospital rather than the anesthesia care provided. Despite a \$12 million demand, no settlement offers were made. Instrumental to the defense were **Julia Klubenspies** (Roseland) and **Karen Kankula** (paralegal, Roseland). ▶



Thomas Lent (recently retired) and **Andra Paganie** (Erie) obtained a dismissal with prejudice of a second amended complaint against our client, a skilled nursing facility. The plaintiffs, a dentist (POA) and his wife, alleged that they suffered a variety of harms after the facility allegedly failed to timely provide them with an update on the dentist's father prior to his passing. The father was 101 years old and a longtime resident of the facility. In a 17-page opinion and order, the judge overwhelmingly agreed with our arguments for the demurrer to all main counts. The judge granted leave to amend on one claim, but with a cautionary comment, as this would be the plaintiffs' counsel's fourth bite at the apple.



Jack Farrell, **Daniel Dolente**, and **Travis Talbot** (all of Philadelphia) successfully obtained dismissal of a Philadelphia County Court of Common Pleas action on forum non conveniens grounds, with leave for plaintiffs to refile in Delaware. Plaintiffs asserted negligent security and branch design claims against a bank after an alleged robbery and assault in Wilmington, Delaware. Despite all key facts, witnesses, and evidence being centered in Delaware, plaintiffs filed suit in Philadelphia. After a years-long venue and forum dispute, including a Superior Court appeal, we demonstrated significant hardship to witnesses and the case's strong connection to Delaware. The court ultimately granted the petition to dismiss for forum non conveniens. **Charmaine Pinckney** and **Jennifer Cicchetti** (Philadelphia) provided paralegal support.



Nicole Tanana (Scranton) secured a complete defense victory in a premises liability action arising from an alleged incident at a skilled nursing facility. The plaintiff alleged that she sustained injuries when a dumpster door swung open and struck her. Although the plaintiff initiated suit just before the statute of limitations expired, she failed to take any affirmative steps to serve the defendants for more than four months and did not effectuate service until five months after filing. The court agreed that this lack of diligence warranted dismissal under controlling Pennsylvania law and dismissed the action with prejudice, resulting in a final resolution in favor of the defendants. ♦



Recognizing the Remarkable Career of **Thomas Lent, Esq.**

Thomas Lent, shareholder in our Health Care Department in Erie, retired in June after 22 years with the firm. Thom was beloved by his clients and colleagues, and the impact he made on Marshall Dennehey's culture and reputation cannot be understated. He tried many cases for our clients, delivering tremendous results while mentoring team members and providing excellent client service. We will miss his humor and good nature, and are deeply grateful for his leadership, professionalism, and countless contributions over the years, including the months (year!) that his retirement date was extended. We celebrate his accomplishments and wish him happiness and good health in his next chapter as he spends well-deserved time with family and friends! ♦



From Bedside to Bar

This series spotlights attorneys who began their careers in medicine before bringing their clinical insight into the courtroom. Their firsthand experience in patient care gives them a unique perspective—and a powerful advantage—in defending health care providers.

Lynne N. Nahmani, Esq.

Former Occupational Therapist



For the Love of Medicine! After more than three decades defending health care professionals in medical malpractice cases, I still harken back to my undergraduate education as an occupational therapist. My education focused on anatomy, physiology, human behavior, and physical and cognitive development; disciplines that have shaped every single legal case I have defended. The competencies acquired are closely aligned, as the scientific analysis reflected in a S.O.A.P. note parallels the legal reasoning process. As lawyers, we must recognize the **S**ubjective and **O**bjective case facts, perform a legal **A**ssessment, and develop a **P**lan for defense. Both professions require critical thinking, careful investigation, and a commitment to solving complex problems. Whether serving a patient or a client, the goal is the same: provide guidance and support for their particular problem. Each problem requires a scientific exercise into the underlying medicine. By understanding the medical issues involved, we are better equipped to build a strong defense, explain complex concepts to a jury, and help our clients make informed decisions about the risks, options, and strategies available for achieving the best possible outcome.

Susan A. Kostkas, Esq.

Registered Nurse



When people ask what I do for a living, I often describe myself as a “nurse who went to law school.” Caring for others has always been a natural part of who I am. Inspired by my mother, a nurse, I began working in nursing homes as a dietary aide during high school and later as a nurse’s assistant while in college. I went on to practice as a nurse at the bedside for ten years, primarily in cardiac care, including time before, during and after law school. My nursing experience continues to influence the way I practice law every day. As a nurse, I learned to assess complex situations, prioritize competing demands, solve problems under pressure, and collaborate effectively with multidisciplinary teams. Those same skills are invaluable in litigation, where strategic decision-making, careful analysis, and teamwork are critical to achieving successful outcomes. My health care background also gives me a unique perspective when reviewing medical records and evaluating clinical issues. Being able to understand medical conditions and health care concepts helps me identify key issues related to liability, causation, and damages. Most importantly, nursing taught me the value of the human side of advocacy. The skills of active listening, empathy, and conflict resolution remind me to slow down amid the demands of litigation and focus on my client. Often, the most important insights into a case come directly from them. These same skills also help me better understand the motivations of plaintiffs and their counsel, allowing me to develop thoughtful, effective defense strategies. ♦



Medical Malpractice and AI: How the Federal Court's Holding in *United States v. Heppner* Impacts Health Care Litigation

By: Dylan T. Trochtenberg, Esq.

For more than a century, civil law in the United States has protected the communications of litigants under a number of protections, including attorney-client privilege and the work-product doctrine. That longstanding framework began to shift on February 17, 2026, when Judge Rakoff of the United States District Court for the Southern District of New York took the first step toward modernizing privacy and confidentiality rules to address the ever looming issue of generative AI.

In the landmark case of *United States of America v. Bradley Heppner*, 820 F. Supp. 3d 292 (2026), Judge Rakoff held that the documents a criminal defendant generated using Claude, a publicly available generative AI platform operated by Anthropic, were not privileged or protected as work product. The facts of *Heppner* include an indictment for a variety of alleged frauds and falsification of corporate records, which arose out of his alleged misconduct as an executive of multiple corporate entities. In conjunction with Mr. Heppner's arrest, the FBI executed a search warrant of his home and seized numerous documents, including 31 documents which memorialized his communications with Claude. These documents covered particularly pertinent topics, such as defense strategies, possible arguments to specific facts or law he anticipated to be included in the indictment, and were prepared without any suggestion from his counsel to do so.

By and through his counsel, Mr. Heppner asserted privilege over the documents generated by Claude.

He argued (1) that the documents included information he had learned from his attorney; (2) were created for the purpose of speaking with counsel to obtain legal advice; and (3) had all been shared with counsel after they were created. Following oral argument on the government's motion seeking a determination that the AI-generated documents were neither protected nor privileged, the court granted the motion on February 10, 2026.

In issuing his opinion, Judge Rakoff determined that the AI documents lacked two, "if not all three," of the elements required for attorney-client privilege—namely that the communications were not "between a client and his or her attorney," the documents were not "intended to be" or were "in fact" kept confidential, and the AI documents were not prepared by Mr. Heppner "for the purpose of obtaining legal advice." Put simply, Judge Rakoff noted that, "Because Claude is not an attorney, that alone disposes of Heppner's claim of privilege." Ultimately, Judge Rakoff concluded that, as the generated documents were not prepared at the request of Mr. Heppner's counsel and did not disclose his attorney's strategies, they failed to merit protections as work-product and were thus discoverable by the government.

The ramifications of *Heppner* will likely cause many changes in litigation practices as a direct result of the increased use of generative AI. Indeed, use of generative AI has exploded as of late. Recent data from Sciencedirect.com shows that the top 40 generative AI tools received nearly 3 billion monthly ▶

visits worldwide in March 2024 alone. Even Judge Rakoff noted the ever-growing prevalence of AI use, stating that “more than half of United States households have adopted AI in some form.”

While *Heppner* involved a criminal case, the holding will similarly be applicable to civil matters. It is incumbent on health care litigators to thoughtfully engage in discovery to determine whether plaintiffs consulted a generative AI platform in relation to their case. In practical use, this could be completed by questioning plaintiffs at deposition regarding whether

they have asked ChatGPT, Claude, or one of the dozens of other generative AI platforms regarding the possible value of their cases, advice on what to say during a deposition, or a number of other queries. Likewise, these questions could be directed to a plaintiff via an Interrogatory or Request for Admissions. Regardless the avenue of questioning, it is paramount for attorneys to test the boundaries of courts across the country which are only now braving the new world intersections of AI, privacy, and privilege. ♦



Practice Spotlight

Catastrophic Medical Injury Practice

Attorneys in our Catastrophic Medical Injury Practice are focused on defending complex, high-exposure matters in litigation, including birth injury claims, catastrophic medical malpractice cases and other significant injury cases involving substantial future care costs and damages exposure.

Combining deep legal knowledge with access to leading medical, scientific and economic experts, our team partners with clients to develop effective defense strategies, manage risk, and achieve favorable outcomes in challenging cases. According to practice co-chairs, **Joan Orsini Ford** and **Kathleen Kramer**, “Catastrophic injury cases demand a unique combination of legal experience, medical understanding and strategic vision. Our team is committed to helping clients navigate these high-stakes matters with thoughtful advocacy, trusted resources and a results-driven approach.”

In select cases, we also provide litigation support related to the selection, retention and cultivation of experts; jury research; and focus group services in the form of mock trials and mock depositions to test the readiness of a defendant or nurse-witness. ♦



Highlights in Pennsylvania Medical Malpractice Law: Expansion of Liability, Nuclear Verdicts, and Emerging Litigation Trends

By: John J. Hare, Esq. and Holli K. Archer, Esq.

Pennsylvania's medical malpractice landscape has undergone significant changes. In the last two years, courts, litigants, insurers, and health care providers have faced a dramatic rise in nuclear verdicts, evolving juror attitudes, aggressive plaintiff advertising, third-party litigation funding, and increasingly complex procedural challenges. These developments have not only reshaped medical malpractice litigation, but have also intensified concerns about health care access, insurance costs, and Pennsylvania's legal climate.

The Expansion of Liability and the Rise of Nuclear Verdicts

One of the most significant trends in medical malpractice litigation is the expansion of liability and the rise of so-called "nuclear verdicts" (generally speaking, personal injury verdicts in excess of \$10 million). Nationally, 2025 set the all-time record with 140 nuclear verdicts, including 30 thermonuclear verdicts (above \$100 million) and five verdicts exceeding \$1 billion. This continued a steady upward trend from 108 nuclear verdicts in 2024 and 91 in 2023.

Pennsylvania has exceeded the national trend. From June 2021 to May 2026, the Commonwealth had 42 nuclear verdicts, with 29 occurring in Philadelphia alone. Medical malpractice cases account for 17 of those 42 verdicts. Philadelphia remains the epicenter

of large medical malpractice awards, producing 11 of the state's 17 medical malpractice nuclear verdicts. Other excessive malpractice verdicts have occurred in York, Beaver, Chester, Delaware, and Luzerne counties.

Although appellate courts have occasionally reduced excessive awards, the overall trend is concerning. Only five of Pennsylvania's 42 nuclear verdicts have been reversed or reduced. In medical malpractice cases, notable examples include:

- *Newlin v. Vita Healthcare Group* – \$19 million verdict overturned.
- *Dawson v. Bayada Home Health Care* – \$14 million verdict remitted to \$8 million.

What Is Driving Large Verdicts?

Legal analysts increasingly point to the COVID-19 pandemic as a catalyst for changing juror perspectives and expanded liability. The pandemic created what many describe as twin sensitivities: a heightened concern for safety and risk prevention, and increased skepticism toward corporations and institutions. These attitudes align closely with the plaintiff-oriented "reptile" litigation strategy, which aims to generate juror anger by framing a corporate defendant's alleged actions as a threat to community safety. ►

Another factor frequently cited in discussions about large verdicts is a growing skepticism toward institutions and large organizations. In many cases, jurors may view corporations, hospitals, insurers, and other well-resourced entities as being in a better position to prevent harm and protect the public. As a result, they may hold these organizations to particularly high (and in many cases unrealistic) standards of conduct and accountability.

The Impact of Changing Jury Demographics

Demographic changes are also influencing litigation outcomes. Millennials represent the largest cohort and may comprise up to 40% of many jury pools. Studies suggest they are the most likely to award large verdicts as they are highly safety-conscious due to experiences such as 9/11, school shootings, and COVID-19, and generally less trusting of large institutions, corporations, and established systems.

Equally important is the emergence of what jury consultants describe as “vulnerable jurors” – individuals who have recently experienced significant financial, medical, or personal hardship. The economic and health-related disruptions of the pandemic have expanded this segment of the population.

Notably, political affiliation has become a less reliable predictor of defense-oriented verdicts. Jurors at both political extremes may be receptive to plaintiffs’ arguments, particularly when they perceive corporate defendants as part of a powerful establishment.

Lawyer Advertising and the Litigation Economy

Philadelphia has become one of the most heavily advertised legal markets in the country. According to the *2025-2026 Judicial Hellholes* report, plaintiffs’ firms reportedly spent \$76.6 million on more than 634,000 advertisements in the region. Billboard, television, radio, and digital marketing campaigns have become nearly unavoidable throughout the metropolitan area.

Critics argue that extensive advertising creates a self-reinforcing cycle by:

- Encouraging potential plaintiffs to pursue claims.

- Increasing settlement demands.
- Raising expectations regarding verdict values.
- Expanding public awareness of litigation opportunities.

Consequences for Insurance and Health Care

The rise in nuclear verdicts has had substantial financial consequences. As verdict severity rises, liability insurance becomes both more expensive and more difficult to obtain. Insurers increasingly report reduced capacity, higher premiums, and more restrictive underwriting practices. For health care providers already facing workforce shortages, reimbursement pressures and rising operational costs, increased malpractice exposure creates additional strain. The result may ultimately affect patient access to care, particularly in underserved or rural communities.

The Legal Marketplace: Workforce Challenges

Although the number of lawyers increased dramatically throughout the 20th century, growth has slowed considerably since 2000. Am Law 200 firms have experienced a net loss of litigators in recent years, and trends suggest that demand for experienced trial attorneys may increasingly outpace supply, particularly in high-exposure litigation areas such as medical malpractice defense.

Looking Ahead

Pennsylvania’s medical malpractice environment is undergoing a profound transformation. Rising nuclear verdicts, evolving juror attitudes, aggressive advertising, and procedural complexities are reshaping the risk landscape for health care providers, insurers, and defense counsel.

As courts, legislators, and industry stakeholders consider potential reforms, medical malpractice practitioners must remain vigilant. Success increasingly depends not only on the merits of a case, but also on understanding changing jury behavior, preserving appellate issues, and navigating a legal environment that continues to expand the boundaries of liability. ♦

SIDEBAR

News and Happenings



Gary Samms (King of Prussia) was a panelist at the 2026 American Legal Connections Healthcare Symposium in July in Atlanta, Georgia. He joined a group of esteemed professionals from the health care and legal industry to discuss “The Modern Plaintiff Machine.”



Megan Nelson (Orlando) presented “Protecting Patients in Real Time: A Guide to Rule 5.900 Petitions,” to the Florida Hospital Association’s General Counsel Roundtable. The conversation focused on Rule 5.900 Petitions and practical strategies for navigating limited case law and common challenges.

Megan will also present later this month at the Florida Society for Healthcare Risk Management and Patient Safety annual conference. In “You’ve Been Served! What’s Next? How to Manage the Risk of Corporate Representative Depositions,” Megan will discuss the best practices, common pitfalls to avoid, and tools to help achieve favorable case outcomes while minimizing the emotional stress often associated with the professional liability and medical malpractice litigation process.



Julia Klubenspies (Roseland) spoke to the 2026 class of incoming resident physicians at The Valley Hospital in Paramus, New Jersey. She discussed ways health care professionals can reduce the risk of being named in litigation.



Matt Keris (Scranton) will be a panelist for the September 29 webinar, “Electronic Medical Records in Medical Malpractice Cases: Emerging Issues, Signs of Alteration, and Use at Trial.” The program will explore emerging EMR issues in medical malpractice litigation, including identifying potential record alterations, obtaining and analyzing EMRs, the role of AI, and effectively using this evidence at trial. For more information and to register, [*click here*](#).

Please join us in welcoming **Matthew FitzPatrick** to our Scranton health care team! ♦



LEGAL ROUNDUP

Case Law Updates

New Jersey

By: Dylan T. Trochtenberg, Esq.

Claims of Future Medical Expenses Must Be Examined Carefully During Discovery to Avoid Unnecessary Surprise at Trial

Terrell v. Chitra, 2026 N.J. Super. Unpub. LEXIS 84 (Jan. 16, 2026) cert. denied. 2026 N.J. LEXIS 536 (2026)

Often in actions involving injuries in New Jersey, a claim for future medical damages is made in tandem with any injury claim. Luckily, in January of 2026, the Appellate Division in the unpublished decision of *Terrell v. Chitra* provided insight as to when a plaintiff may actually recover future medical expenses.

Plaintiff was involved in a motor vehicle accident wherein she claimed injuries to the neck, back, and right shoulder, with specific claims of cervical disc herniation. Plaintiff's orthopedic surgeon recommended she undergo a cervical discectomy and fusion, though she never took any substantial steps towards receiving the surgery. However, at the time of trial, plaintiff testified that she wanted to have the surgery and the trial court permitted medical expert testimony regarding the need for surgery and the cost of same. Ultimately, the jury returned a verdict of \$1,300,000 - \$1,000,000 for pain and suffering and \$300,000 for future medical costs.

On appeal, defendant argued that the future medical costs were inadmissible due to: 1. plaintiff's failure to disclose her intention on having the surgery; and 2.

the introduction of the cost of the speculative future surgery tainted the jury's pain and suffering award. The Appellate Division agreed and found that the plaintiff never made a definitive statement pre-trial that she would have the surgery, thus prejudicing the defendant. The court also found that the plaintiff expert's opinion testimony regarding the future costs of the surgery were improper and tainted the overall value of the injuries and pain/suffering. Ultimately, the matter was remanded back to the trial court for an entirely new trial on damages, with a bar on introducing evidence of speculative future medical expenses. On June 2, 2026, the Supreme Court of New Jersey entered an order denying a petition for certification. See *Terrell v. Chitra*, 2026 N.J. LEXIS 536 (2026).

At its core, the holding in *Terrell* is a reminder that trial counsel must proactively file motions *in limine* to bar claims for speculative future medical expenses. While *Terrell* is a motor vehicle accident case, the holding is equally as applicable to medical malpractice and long-term care matters where plaintiffs make claims regarding future care. Defense counsel should be certain to question plaintiffs at their deposition regarding any future surgeries and make specific evaluations of medical expert reports for the claimed costs of future treatment. ♦



LEGAL ROUNDUP

Case Law Updates

Ohio

By: Gabriella M. Wittbrod, Esq.

The Ohio Supreme Court Extends Sham-Affidavit Rule to Contradictory Expert Reports

Moore v. Mercy Med. Ctr 2026-Ohio-2293

In its June 23, 2026, decision in *Moore v. Mercy Medical Center*, the Ohio Supreme Court upheld a trial court's decision to strike an expert witness's affidavit that contradicted the opinions expressed in the expert's prior report.

This case pertains to allegations of medical malpractice after plaintiff Cheri Moore gave birth to an infant in respiratory distress who required intubation. Moore alleged that a delay in ordering an emergency cesarean section resulted in the need for intubation, causing her child's injuries. Specifically, Moore sued Dr. Meniru, who completed his first shift at 7:00 a.m. on May 28, 2015, and did not resume treating Moore until 7:00 a.m. on May 29, 2015.

One of Moore's expert witnesses authored a report stating that the doctors, including Dr. Meniru, deviated from the standard of care by not advocating for a cesarean section in the evening of May 28, 2015. Based on this report, Dr. Meniru moved for summary judgment, arguing that the alleged breach occurred during a period when he was not on duty.

In response to the summary judgment motion, the plaintiff filed an affidavit from the same expert. Although the expert expressly incorporated his previous report into his affidavit, he also offered an additional opinion: that Dr. Meniru breached the standard of care by failing to begin a cesarean section within 30 minutes of receiving reports of fetal distress.

Dr. Meniru filed a motion to strike the expert's affidavit, arguing that it contradicted the opinions set forth in his prior report in violation of the sham-affidavit rule. The sham-affidavit rule applies to "a contradictory affidavit that indicates only that the affiant cannot maintain a consistent story, or is willing to offer a statement solely for the purpose of defeating summary judgment". Moore, *supra*, at ¶ 19, citing *Pettiford v. Aggarwal*, 126 Ohio St.3d 413, 2010-Ohio-3237. The trial court granted both the motion to strike and the motion for summary judgment, and the Fifth District affirmed.

The Ohio Supreme Court accepted two questions of law: (1) whether the sham-affidavit rule applies when the sworn testimony contradicts prior unsworn statements; and (2) whether an inconsistency within the affidavit goes to credibility or admissibility, justifying an order striking the affidavit.

Previous rulings by the Ohio Supreme Court regarding the sham-affidavit rule have pertained to contradictions between an affidavit and sworn deposition testimony. See, e.g., *Byrd v. Smith*, 2006-Ohio-3455, 110 Ohio St.3d 24, 850 N.E.2d 47. However, here, the Court was asked to apply the same rule to contradictions between a sworn affidavit and an unsworn expert report. The Court held that, because Moore's expert incorporated his prior report into his affidavit, he effectively adopted the report as part of his sworn testimony. ♦



LEGAL ROUNDUP

Case Law Updates

Pennsylvania

By: Julianna L. Malloy, Esq.

Pennsylvania Superior Court Reaffirms Liberal Pleading Standard in Medical Malpractice Actions

DaSilva v. Abington Mem'l Hosp., 2026 Pa. Super. Unpub. LEXIS 1440

The Pennsylvania Superior Court has reinforced a broader fact-pleading approach that may make it more difficult for health care defendants to obtain dismissal at the preliminary objection stage. In *DaSilva v. Abington Memorial Hospital*, the court held that the plaintiffs' second amended complaint satisfied Pennsylvania's fact-pleading requirements despite the absence of individually named negligent actors.

In *DaSilva*, the plaintiffs filed a second amended complaint alleging that Abington Memorial Hospital was directly and vicariously negligent after the patient, who was experiencing a mental health crisis, was left unattended by hospital staff, exited the emergency department, and was struck by a vehicle, suffering serious injuries. The trial court sustained the hospital's preliminary objections and dismissed the complaint with prejudice, stating plaintiffs "failed to plead any material factual allegations in support of their claims of negligence [and] set forth vague allegations of negligence and unidentified agency." *Id.* at *5. The plaintiffs appealed.

On appeal, the Superior Court reversed, holding that the complaint sufficiently pled negligence and vicarious liability claims under Pa.R.C.P. 1019(a). The court concluded that allegations describing the patient's condition, the hospital's awareness of that condition, and the alleged failure to monitor or prevent elopement were adequate to satisfy Pennsylvania's pleading requirements.

Significantly, the court rejected the hospital's argument that the complaint failed because it did not identify the specific employees responsible for the alleged negligence. Instead, the court found that generalized references to "emergency room staff" were sufficient to place the hospital on notice of the claims because "the names of those who performed services for the plaintiff are known to the defendant or can be ascertained during discovery." *Id.* at *12 (citing *Est. of Denmark ex rel. Hurst v. Williams*, 117 A.3d 300, 307 (Pa. Super. 2015)).

The effect of *DaSilva* is that plaintiffs may proceed past the pleading stage with relatively generalized allegations, particularly in cases involving institutional defendants where relevant details are uniquely within the defendant's control. As a result, health care defendants should anticipate that challenges to claim sufficiency may be resolved in the later stages of litigation, including discovery and summary judgment. ♦

We are proud of the firm's 16 medical malpractice attorneys who have been recognized in the 2027 editions of The **Best Lawyers in America®** and the **Best Lawyers: Ones to Watch®** in America. Less than 6% of all practicing lawyers in the U.S. were selected by their peers for this recognition.



Special congratulations to **Justin F. Johnson** who was recognized as 2027 "Lawyer of the Year" in his jurisdiction for Medical Malpractice Law – Defendants.



Best Lawyers: Ones to Watch

- Holli K. Archer

Best Lawyers in America:

- Robert T. Evers
- Jason P. Ferrante
- Maria R. Granaudo
- Joseph L. Hoynoski III
- Leslie M. Jenny
- Matthew P. Keris
- Julia A. Klubenspies
- Lynne N. Nahmani
- John R. Ninosky
- Gary M. Samms
- Victoria Crawshaw Scanlon
- Brett C. Shear
- Joel M. Snavelly
- Robin B. Snyder



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