

SPANGENBERG SHIBLEY & LIBER

TRIAL LAWYERS

EST. 1946

SUMMER 2025 NEWSLETTER

SPANGENBERG WINS VERDICT IN NURSING HOME WRONGFUL DEATH CASE

$17.675 MILLION VERDICT


NICHOLAS A. DICELLO


DUSTIN HERMAN

Spangenberg Shibley & Liber Partners Nicholas A. DiCello and Dustin Herman won a $17.675 million verdict in July in a nursing home wrongful death case for two sisters who were fighting on behalf of their youngest sister.

In January 2023, their 52-year-old sister, who had multiple sclerosis (MS), was living in a nursing home. One morning she had a significant change in condition, but her family was not notified, and she was not taken to the hospital for over 12 hours. By the time she was sent to the hospital, she had a severe kidney infection and was in sepsis. Despite aggressive treatment in the hospital, she passed away.

The two sisters met with Spangenberg in March 2023, and Nick and Dustin filed the lawsuit the following September in Hamilton County.

After years of preparation and the defendant refusing to take responsibility, Nick and Dustin took the case to trial.

"This wasn't a settlement; this is a case that went to trial," Nick said. "You've got one side saying the sisters should get nothing, and our side demanding something around $20 million. This is the pinnacle of trial practice: we're going to put it in the hands of the jury."

The decedent was unmarried and had no children. Her mother, suffering from late-stage dementia, was unable to participate in the trial. Defense attorneys and insurance adjusters tend to believe that juries are less inclined to award significant damages in cases involving nursing home residents with progressive conditions such as multiple sclerosis—particularly when the beneficiaries are adult siblings rather than a spouse or children.

But attorneys Nick and Dustin knew the value of the loss in this case was significant and focused on the human impact of the loss. Through compelling testimony and careful storytelling, they demonstrated the profound role the woman played in her sisters' lives, ensuring the jury understood the depth of the family's loss.

"These sisters were more than just sisters. They were her caretakers and her protectors. The disease, as horrible as it was, brought these three women much closer than maybe they otherwise would have been, and I think the jury understood that," said Nick.

An expert on the defense side testified that had the woman not gotten the infection, she was only going to live for four to six weeks anyway because of her MS. Nick and Dustin proved that was a ridiculous position for the defense to take, and ultimately the jury sided with the plaintiff. The damages awarded reflect the jury's clear recognition of the harm caused by the nursing home.

"The two sisters had been fighting for their sister since the day she died. To have a jury tell them that they were right was very meaningful for them; it was a powerful moment in the courtroom. Nothing will ever take that moment away from them. These are just two regular folks who won against four law firms, two insurance companies, and a defense team of 15-20 people. That's the majesty of the civil justice system on our country," said Nick.

CELEBRATING OUR PARTNERS' LEADERSHIP IN THE LEGAL COMMUNITY

Three of our partners are currently serving as presidents of Ohio legal organizations. We thank them for their community engagement and leadership and can't wait to see how their hard work supports our industry!

JEREMY TOR:
President of the Federal Bar Association, Northern District of Ohio Chapter

DUSTIN HERMAN:
President of the Cleveland Academy of Trial Attorneys

NICHOLAS A. DICELLO:
President of the Cleveland Metropolitan Bar Association



Spangenberg Defends Verdict on Appeal and Sets Precedent in Medical Malpractice Case

$7 MILLION VERDICT


STUART E. SCOTT


MICHAEL LEWIS

Spangenberg Shibley & Liber successfully defended a $7 million verdict ($7.7 million with interest) on appeal in a medical malpractice suit, with Partners Stuart E. Scott and Michael P. Lewis handling the trial and Associate Kevin C. Hulick assisting Stuart and Michael in tackling the appeal. Co-Counsel Steve Keefe also tried the case with Stuart and Michael and assisted with all aspects of the appellate briefing.

Ultimately, the team garnered 21 judicial votes in their favor on the appellate issues (including the trial court's post-trial rulings); after winning in trial, three 7th District Court of Appeals justices ruled in Spangenberg's favor before denying reconsideration, then all seven Ohio Supreme Court justices rejected hearing the case in April 2025 and again in July 2025.

The medical malpractice took place in May 2020, when Brian Patrick vomited a significant amount of blood and was taken to an emergency room (ER) by EMS. He was seen in the emergency department (ED) by a resident, who determined he was safe to discharge home, and the attending physician signed off on the resident's decision.

About 40 hours later, he started vomiting blood again and was rushed to the ER, where he died of a gastrointestinal (GI) rebleed. The Spangenberg team filed the case in March 2021 and argued that Brian should have been admitted to the hospital by the ED attending and received an upper endoscopy within 24 hours of his admission because the bright red blood indicated there was fresh blood from an opened artery, most likely in the stomach or duodenum. They then would have identified the source of the bleeding and repaired it. The jury unanimously agreed, and the family was awarded a $7 million verdict against the attending doctor and the doctor's employer.

In a strategic move, the defendant attending physician did not testify in the case. This led the Spangenberg team to argue in its closing statement that he did not dispute the resident's testimony during trial. The resident testified that the medical team included a gastric ulcer in the list of potential diagnoses due to significant daily doses of ibuprofen Brian was taking. She also testified that the standard of care as well as the only way to rule out a diagnosis of an upper GI bleed and determine the risk for rebleeding is to perform an upper endoscopy within 24 hours.

"This case establishes precedent that the court of appeals and the supreme court recognized: a party in a civil case has the right to comment about another party's failure to testify under circumstances where you would expect the party to testify to rebut or explain evidence that was admitted into trial," said Stuart. "In the closing argument, we said the defending doctor must agree with his resident because he did not testify to refute what she said – he agrees they did not rule out a gastric bleed and should have admitted Brian for an urgent upper endoscopy within 24 hours."

Additionally, the jury's decision supported their closing argument that the standard of care should be one that protects patient safety. Stuart said the firm is proud of Brian's family for their tenacity over the course of the case; his wife is grateful to the Spangenberg team and glad to fight for a standard of care that will save the lives of other patients who present to the ED with an upper GI bleed in the future.

"At Spangenberg, we believe that to provide the best representation, we need to handle the appeals, especially when they're based on what happened during the trial," Stuart said. "We take pride in the fact that after we win the initial verdict, we continue to see the case through by handling the appellate work with the same level of skill, intensity, and preparation as we do when we try the case. We believe this is a critical part of providing the best representation possible for the client."

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Abigail Hoover

HIRED AS ASSOCIATE ATTORNEY



Spangenberg Shibley & Liber is pleased to welcome Abigail Hoover, Esq. as an associate attorney. Abigail brings a strong background in personal injury litigation and a deep commitment to client advocacy, with experience working on cases involving motor vehicle collisions, trucking accidents, dog bites, nursing home neglect, and medical negligence.

Abigail's path to the legal profession was marked by an early and focused passion for justice. While still in high school, she earned her associate degree, later completing her undergraduate studies through The University of Akron's BA/JD program in a year and a half while simultaneously finishing her first year of law school. She earned her J.D. from The University of Akron School of Law in 2024, where she was a member of the Moot Court Honor Society and Women in Law Association. While there, she also participated in the Housing Law Clinic, where she represented low-income tenants in court.

"I've seen firsthand the impact of advocating for people in their most vulnerable moments, and I was fortunate enough to build a path that allowed me to pursue that purpose early on," Abigail said. "That same focus and commitment continue to guide my practice every day. It's an honor and a privilege to stand with our clients during their most difficult moments and pursue justice on their behalf."

Before joining Spangenberg in August 2024, Abigail worked at Lazzaro Luka Law Offices LLC and the Clerk of Courts Office of Stow Municipal Court. A lifelong resident of Northeast Ohio, she is proud to return to the Cleveland area to serve the community she calls home.

"Abigail's drive, compassion, and client-centered approach are exactly the qualities we value in our attorneys," said Stuart E. Scott, partner. "Her work ethic and genuine passion for helping others make her a strong addition to our personal injury team."