

SPANGENBERG SHIBLEY & LIBER

TRIAL LAWYERS

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NEWSLETTER

SPANGENBERG WINS APPEAL AGAINST HOSPITAL ON $6 MILLION VERDICT



NICHOLAS DICELLO



DUSTIN HERMAN

Do hospitals owe a duty of care to their customers (patients) just like any other corporation? Of course they do. So a direct claim of negligence against a hospital should be nothing special. But most medical claims tend to focus on the conduct of individual doctors, nurses, etc., instead of the failures of the hospital system itself. And when Spangenberg attorneys Nick DiCello and Dustin Herman recently obtained a $6 million verdict—holding a hospital directly liable for the death of a 68-year-old woman—the hospital appealed, claiming in part that it could not be held directly responsible for the death of its patient.

But Dustin says, "We knew early on that the hospital system was at fault as much as any individual nurse or doctor." In November 2018, Rose Crnjak was sent home from the Lake West emergency room. Nine hours later, the hospital's alert system started sending out "critical red alerts" to various members of the hospital staff because blood test results showed Rose had a blood infection. But there was confusion over whose job it was to actually notify Rose. In the end, no one called Rose. No one told her she had a blood infection and needed to get back to the hospital immediately or she would die. Four days later, Rose was found dead at home by her family.

Nick and Dustin brought claims against the ER doctor—and—directly against the hospital for Rose's death. In April 2023, a Cuyahoga County jury found against both the ER doctor and the hospital, splitting fault 50/50 between the two and awarding $6 million in total to the plaintiff. The hospital appealed, but in May 2024, Ohio's Eighth District Court of Appeals upheld the verdict against the hospital.

Nick and Dustin were the trial attorneys on the case, and they also handled the appeal (with help from a fantastic appellate attorney, Louis Grube). Nick did the oral argument. Nick says, "It's important that we as the trial lawyers handle the appeal. We know the case. We know the facts. We know the record better than anybody else."

On appeal, the hospital argued the ER doctor was 100% responsible because he never told anyone to call Rose. It also argued the plaintiff never identified a specific nurse who violated the standard of care by not calling Rose. But the appellate court said none of that mattered. It held the plaintiff did not need to prove a specific doctor or specific nurse did something wrong. Rather, it held the plaintiff just needed to prove the hospital itself, as a corporation, had done something wrong.

At trial, Nick and Dustin proved there were no written notification policies and that there was confusion between the hospital staff over whose job it was to call Rose. They proved Rose simply fell through the cracks of a broken system. The Eighth District concluded: "[T]he record is clear that neither Rose, nor anyone in her family, nor Dr. Ho [Rose's PCP], were ever made aware of the fact that Rose had a blood infection. . . . Based on this evidence, the conclusion that Lake Hospital was negligent because of its inadequate notification policies was properly supported." Crnjak v. Lake Hospital System, Inc., 2024-Ohio-1977, .98.

This was a great result for all Ohioans. Dustin says proudly, "When the hospital appealed, we set out to not simply win the appeal, but to advance the law in Ohio for all hospital patients. And we did just that. Now there is a clear roadmap for holding hospitals directly liable for inadequate policies and procedures." The appellate decision makes it clear that under Ohio law, hospitals, just like other corporations, owe a duty of care to their patients—and if hospitals violate that duty, hospitals can and should be held directly responsible.

JUSTICE FOR VICTIMS OF OCT. 7 HAMAS MASSACRE

We recently commemorated the anniversary of the Hamas terrorist attack on Israel—a massacre that took the lives of more than 1,000 innocent people, including American citizens. The Spangenberg firm is proud to represent American citizens harmed by the attack, which occurred in October 7, 2023.

The firm will be filing a lawsuit against Iran in federal court in D.C. under the Foreign Sovereign Immunities Act. The lawsuit will seek to hold Iran accountable for providing financial, military, and logistical support to enable Hamas to perpetrate the attack.

$1 BILLION JUDGMENT AGAINST IRAN

The Spangenberg firm, working with a team of the nation's top plaintiff's firms, recently obtained a nearly $1 billion judgment against the Islamic Republic of Iran on behalf of 109 U.S. soldiers and their families. The judgment, issued in June by the federal trial court in Washington, D.C., is the product of eight years of hard work, including a trial at which Spangenberg partner Jeremy Tor was one of three lawyers presenting evidence of Iran's liability for supporting terrorist attacks against U.S. soldiers in Iraq.

The judgment will be satisfied, in part, through the U.S. Victims of State Sponsored Terrorism Fund, which Congress established in 2015 to provide compensation to victims harmed by state-sponsored terrorism. The fund is financed by criminal and civil penalties imposed on companies that violate U.S. laws against doing business with state sponsors of terrorism, including Iran and North Korea. For example, Binance, the world's largest cryptocurrency exchange, recently pleaded guilty to, and paid a several billion dollar fine for, violating anti-money laundering and other laws. A portion of the fine was deposited into the fund and is available to terrorism victims who have obtained final judgments from U.S. courts.

The lawsuit was brought against Iran under the Foreign Sovereign Immunities Act, which makes a state-sponsor of terrorism liable for supporting terrorist attacks against U.S. citizens. The Spangenberg firm represents, in collaboration with five other firms, approximately 3,000 individuals harmed by terrorist attacks that took place in Iraq from 2003 through 2011.

Given the magnitude of the litigation, the lawyers proposed a novel, multi-phased approach. In the first phase, they presented evidence of Iran's material support for nine terrorist groups. In the second phase, the lawyers selected representative attacks and presented evidence that those attacks were perpetrated by one of the terrorist groups. The June decision, issued for victims of the representative attacks, serves as guidance for Special Masters selected by the court to review—and make recommendations regarding—Iran's liability for the remaining attacks. The Special Masters are also charged with making damages recommendations to the court.

The Spangenberg firm team, which includes Jeremy Tor, Dustin Herman, and Jessica Berberich, is proud and honored to continue this fight for justice on behalf of individuals who have sacrificed so much for our country as well as for peace and security around the world.

SPANGENBERG SHIBLEY & LIBER LLP ANNOUNCES $100,000 CHALLENGE MATCH TO SUPPORT THE LEGAL AID SOCIETY OF CLEVELAND

All donations will be matched, dollar for dollar, up to $100,000 through Dec. 16; match demonstrates law firm's commitment to extending justice alongside Legal Aid



Spangenberg Shibley & Liber LLP will match all donations to The Legal Aid Society of Cleveland, up to $100,000. The announcement was made during Legal Aid's 119th annual meeting held on Monday, Nov. 25 at Hilton Cleveland Downtown. Now through Monday, Dec. 16, all donations will be matched dollar-for-dollar, up to $100,000, supporting Legal Aid's mission of providing legal services at no cost to its clients.

The $100,000 challenge match was shared with more than 1,000 attendees immediately following the event's keynote speech from civil rights activist and author, Ruby Bridges.

"We're honored to support Legal Aid in their commitment to providing fair and equal access to justice for all, regardless of financial circumstances. Our team of attorneys believe everyone deserves skilled representation and the opportunity to seek justice—values at the core of both our practice and Legal Aid's mission," said Jeremy Tor, partner at Spangenberg Shibley & Liber. "By empowering those facing life's toughest challenges, we're helping build stronger communities, where fairness isn't limited to those who can afford it but is a right for everyone."

The challenge gift is a tradition at Legal Aid's annual meeting since 2018. This year's match is unprecedented, as it's the largest to date. The annual gift efforts, along with The Campaign for Legal Aid, have helped leverage and increase philanthropic giving to Legal Aid from $2.5 million to $6.8 million in five years.

To date, Spangenberg Shibley & Liber has raised nearly $52,000 for Legal Aid.

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Spangenberg Team Updates

In September, Nicholas DiCello was inducted as a Fellow into the American College of Trial Lawyers, an invitation only fellowship of exceptional trial lawyers of diverse backgrounds.

In October, Jeremy Tor was sworn in as President of the Federal Bar Association, Northern District of Ohio Chapter, one of the country's most vibrant, engaged, and award-winning chapters.

In October, Dustin Herman successfully led the MTMP Fellows Program for the second year in a row. The Program's mission is to train, encourage, and inspire the next generation of trial lawyers. It brought together students from the nation's top law schools to learn from some of the best trial lawyers in the country.