

## **McCumber Daniels Attorneys receive a Defense Verdict for hospital client in a claimed Corporate Negligence Case**

**May 16, 2011 – Chester County, Pennsylvania** – McCumber, Daniels, Buntz, Hartig & Puig, P.A. attorneys, E. Patrick Buntz and Patrick J. Healey, received a complete defense verdict on behalf of a hospital client in a six (6) day trial. The case involved a 72 year old woman who was undergoing a temporal artery biopsy when a fire erupted in the operating room. The fire started when the instrument the surgeon performing the biopsy was using, ignited an accumulation of oxygen that was being administered by a nurse anesthetist. The instrument, an electro-cautery devise better known as a Bovie, apparently caused a flash fire when the oxygen administered by the nurse anesthetist leaked from the patient's airway. During the procedure, the CRNA identified that the patient was having an airway problem and moved to increase the level of oxygen she was receiving from 31% via nasal cannula to 100% via face mask. When he did, excess oxygen began escaping from the mask and building up in the space under her surgical drapes. Unfortunately, the patient suffered 2<sup>nd</sup> degree burns around her face, and other burn related injuries in her throat. The Plaintiff spent four weeks post incident in a burn center and two weeks in a rehabilitation facility.

Plaintiff's counsel asserted that the Plaintiff suffered a decreased ability to taste food; difficulty swallowing with more frequent aspirations; pain in her nose with nose bleeds; loss of voice strength and volume which decreased her ability to talk for extended periods of time; difficulty with breathing requiring nebulizer then oxygen; placement of a breathing tube for two weeks; decreased independence; more debilitated after the fire than before with decreased ability to ambulate; decline in her pre-fire alertness and progressive depression. The Plaintiff died of unrelated causes almost two and one half years later.

There was a corporate negligence claim against the hospital. As to corporate negligence, Plaintiff asserted that the hospital had inadequately trained the physician involved regarding fire safety procedures, among other arguments, which resulted in this accident. Hospital counsel was able to demonstrate that the Joint Commission does not require mandatory, annual training on fire safety for the entire operating room staff and that the reasonable hospital standard for Joint Commission accreditation was not to train physicians, anesthesiologists/CRNA's beyond their medical training on fire safety and prevention.

On May 16<sup>th</sup>, the jury came back finding that the hospital was not negligent in this incident. The jury found the only party responsible was the nurse anesthetist who failed to inform the surgeon that he was administering supplemental oxygen via face mask which caused the fire. The CNRA had settled previous to trial.

McCumber Daniels is a litigation defense firm with offices in Florida and Pennsylvania. The Firm's practice areas include litigation involving hospitals; clinics and health care institutions; nursing homes and assisted living facilities; medical malpractice defense; health administrative law; insurance and insurers; general civil and commercial litigation; and appellate practice.

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