

## **Medical Malpractice - Wrongful Death From Septic Shock - Emergency Room Released Bypass Patient Despite Symptoms - Private Adjudication With Baseball Arbitration Method**

by admin

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**Brief Statement of Claim:** After undergoing a heart bypass and being discharged, the plaintiff's deceased reported to the emergency room with an elevated white blood count, an abnormal EKG, low blood pressure, severe chest pain and abnormal arterial blood gases and a fever. After approximately 6 hours in the emergency room, the defendant cardiac surgeon discharged the patient home with a fever of 103.1. He died the next evening. Blood cultures taken in the emergency room indicated that the plaintiff's deceased had a severe infection. Plaintiff's experts opined that he died as a result of the untreated sepsis which resulted in a septic shock death.

**Principal Injuries (in order of severity):** Death

**Special Damages:** n/a

**Tried or settled:** Arbitrated

**County where tried or settled:** Durham

**Case Name and number:** Marie Keltner, Adm. for the Estate of Martin Keltner v. (Defendant's name withheld under confidentiality agreement)

**Date Concluded:** April 1994

**Private Adjudicator:** Robert A. Collier, retired Superior Court judge

**Amount:** \$660,000, with the defendant paying all arbitration and expert witness deposition costs

**Insurance Carrier:** n/a

**Expert Witnesses and areas of expertise:** Dr. Alan Woelfel, cardiologist; Dr. Finley Lee, economic damages

**Attorneys for plaintiff:** William S. Mills of Glenn, Mills & Fisher, Durham

**Other Useful Info:** The deceased was a 42 year old father of one minor and one adult child who was also survived by his wife of 21 years. The wrongful death case was tried by agreement with the Private Adjudication Center in Durham. The trial was restricted to a total of four hours for the plaintiff and three hours for the defendant. The format of the private adjudication was what is commonly known as Baseball Arbitration, which provides that each party submit a number they believe represents the reasonable compensation to the survivors for the loss of the decedent's life. As part of the arbitration agreement, negligence and causation were stipulated and the only issue at trial was the deceased's life expectancy, and damages.

Counsel credits the recovery in large part to the excellent presentation of Dr. Alan Woelfel. Although they had originally planned on using professionally prepared diagrams of the heart, they decided instead to have the witness simply diagram the vascular system of the heart during his testimony in order to illustrate why the coronary problems should not have significantly compromised the deceased's life expectancy.

Counsel also credits the testimony of the deceased's co-workers, neighbors, the minor child's counsellor, the adult daughter and the widow, with leaving no question in anyone's mind about the loss suffered by this family. The family provided invaluable assistance in creating a scrap book reflecting various stages of the deceased's life with his family. This scrapbook proved very persuasive on the issue of the loss of society damages.