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# suits & deals

## Court Approves \$12 Million Settlement in Med Mal Case Over Fatal Allergic Reaction

A \$12 million settlement was approved by the court on March 8 in a Monmouth County suit, *Estate of Gago v. Monmouth Medical Center*, after a 35-year-old man died in the emergency department of Monmouth Medical Center after experiencing a severe allergic reaction.

David Gago arrived at Monmouth Medical Center after 3 p.m. on Jan. 1, 2017, complaining that he was having an allergic reaction to his wife's perfume, and stating that he had developed hives earlier in the day and that he felt like his throat was closing. Gago was noted to be 343 pounds and had never suffered an allergic reaction before, according to **Daryl L. Zaslow** of **Eichen Crutchlow Zaslow** located in Edison, representing the plaintiffs.

Gago was admitted to the emergency department under the care of defendants: Dr. Kevin Sirchio, a physician board certified in emergency medicine, registered nurse Sarah Schwartz, and charge nurse Heather Bathgate.

According to Zaslow, Sirchio ordered three medications—Diphenhydramine (Benadryl), Famotidine (Pepcid), and Dexamethasone (Decadron)—and maintained, during discovery, that because Gago was not hypotensive or tachycardic, and was not in respiratory distress, he believed the man was suffering from bradykinin-mediated angioedema. Sirchio maintained that because epinephrine doesn't help a patient suffering from that condition, and because epinephrine could cause morbidity in obese patients, he chose not to order or administer the drug.

After Gago's condition worsened, Sirchio called for anesthesia and surgery, and made preparations for intubation. However, due to a swollen airway, intubation failed. When Gago was brought to the operating room, he was hypoxic and cyanotic. Dr. Kambiz Kamrani, a surgical resident, arrived and made two unsuccessful attempts to place a surgical airway. Dr. Alfonso Ciervo, the attending surgeon, was performing a cricothyrotomy on Gago when he suffered a cardiac arrest. Gago could not be resuscitated and was pronounced dead at 6:34 p.m., Zaslow said.

Gago was survived by his wife, Michelle Gago, and two young children. At the time of his death, Gago was a communications consultant and infrastructure project manager with Sharp Decisions in New York and a consultant with MADI, a company located in Long Branch. In 2016, Gago's income was approximately \$275,000, Zaslow said.

The estate alleged wrongful death from alleged failure to timely diagnose and treat anaphylaxis/allergic reaction. The case was brought in Monmouth County Superior Court and was presided over by Judge **Kathleen A. Sheedy**. It was settled for \$12 million on Feb. 15 following multiple mediation sessions with **Raymond A. Reddin**, a retired judge with **Hall Booth Smith** in Saddle Brook. The court approved the settlement on March 8.

"The amount of this recovery is indicative of how special David Gago was to those that loved him, to how loving and strong his wife Michelle remains in



**DARYL ZASLOW**

COURTESY OF DARYL ZASLOW

raising their children without her partner, to how beautiful their children are and to the tremendous effort involved in advocating for this family," said Zaslow. "It was my honor to represent them and ensure that they received justice in this tragic case."

Zaslow stated that a portion of the settlement is being used to purchase annuities that bring the projected total value of the recovery at more than \$21 million.

Sirchio was represented by **William G. Theroux** of **Buckley Theroux Kline & Cooley** in Princeton. **Lauren Zalepka** and **James M. Ronan Jr.** of **Ronan, Tuzzio & Giannone** in Tinton Falls represented Monmouth Medical Center, Schwartz, Bathgate and Kamrani. The defense attorneys didn't respond to a request for comment.

— **Colleen Murphy**