Allogenic Blood Transfusion: Court Throws Out Negligence Verdict Against Hospital.

The patient had three units of his own blood drawn and stored before he went in for hip replacement surgery.

He needed a fourth unit of blood when complications arose in the recovery room. His blood pressure was dropping and his heart rate was rising. The fourth unit was given under the direction of a nurse anesthetist with no immediate complications.

An hour after the fourth unit was given he started to deteriorate rapidly and died the next morning. The autopsy found disseminated intravascular coagulation. Subsequent investigation linked that to contamination of the fourth unit of blood with yersinia enterocolitica bacteria.

The patient's family sued and got a large jury verdict against the hospital. The Court of Appeals of Michigan threw out the verdict and ordered a new trial.

Autologous Blood / Allogenic Blood

The court recognized that in general a patient does have the basic right to have his or her own stored blood used before donor blood is used.

The patient in this case did sign a surgical consent form allowing other donors' blood to be used if there was not enough of his own. The Court of Appeals overruled the local circuit court judge for allowing the family's lawyer to tell the jury that the deceased did not want to receive a stranger's blood. That was highly prejudicial to the hospital. It was also just hearsay. And the consent form the patient signed had precedence over any oral statements he may have made, the court ruled.

Negligence / Standard of Care

The court could not find any negligence by the hospital personnel who gave the fourth unit of blood. They monitored the patient closely while it was transfusing for a spike in his body temperature or other signs indicating an adverse reaction due to mismatched immune factors.

The adverse reaction started an hour after the fourth unit was given and came from a rare bacterium. **Tobin v. Providence Hospital, 624 N.W. 2d 548 (Mich. App., 2001).**

A nurse will not be held responsible for complications from blood contaminated by rare bacteria if the nurse closely monitors the patient during the infusion and there is no sign of an adverse reaction until well after the transfusion is completed.

To try to rule out bacterial contamination all a nurse can do is inspect the color and consistency of the blood in the bag before giving it to the patient.

The color of the blood in the bag should not be a different shade of red than the blood in the tube, assuming another bag has already been hung.

Even still, it can take weeks after blood is contaminated with bacteria before color change or clotting will show up, and not all bacterial contamination produces color change or something evident upon gross visual inspection.

Purple clots, other clots or hemolysis suggest the blood is contaminated with bacteria, according to the Technical Manual of the American Association of Blood Banks (1990).

COURT OF APPEALS OF MICHIGAN, 2001.

Religious Discrimination: Hospital Offered Reasonable Accommodation.

Based on her religious belief that homosexuality is immoral, a hospital's employee assistance counselor refused to counsel a lesbian employee about her relationship with her lesbian lover.

The counselor quit her job and sued for religious discrimination. The US Circuit Court of Appeals for the Fifth Circuit said her employer could not force her to go against her religious beliefs, but her employer offered reasonable accommodation and that meant she had no right to sue.

Regardless of her religious beliefs about homosexuality, letting one employee assistance counselor pick which cases she will see would create an unbalanced work load.

She is entitled to reasonable accommodation for her religious beliefs, that is, she can transfer to another position where her religious beliefs will not be an issue.

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT, 2001.

She was offered assistance from an in-house employment counselor to find another job at the hospital.

She refused to consider a pastoral counseling position. The court pointed out an employee cannot refuse to cooperate with the employer's efforts at reasonable accommodation, then turn around and sue.

The court said her employer had no legal obligation to show her a preference over more senior or more qualified employees for the psych assessment counselor position. **Bruff v. North Mississippi Health Services, Inc., 244 F. 3d 495 (5th Cir., 2001).**