

# LEGAL EAGLE EYE NEWSLETTER

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## Community Blood Bank: Court Upholds Duty To Aid Non-Patients In Emergencies.

For some time a certain full-service acute-care hospital was the only facility in the area supplying outpatient surgical services. Then a new outpatient facility opened just one mile away.

The court record set the stage for the events leading to a patient's tragic and avoidable death.

A highly competitive climate arose between the top-level executives of the two facilities.

The first facility refused the new facility's request for a standing arrangement to transfer its patients to the first facility who would need inpatient hospital care following surgery.

More ominously, the first facility housed the community blood bank for the area and refused to enter into a standing arrangement to supply blood to the outpatient facility.

### **Request for Blood Refused**

A patient was having a routine outpatient laparoscopic tubal ligation at the new outpatient facility when serious bleeding started.

The surgeon gave the perioperative nurse explicit instructions not to type and cross-match the patient's blood for the Red Cross located about thirty-five miles away, but to get four units of O Negative blood from the hospital blood bank only a mile away.



***The purpose of a community blood bank is to supply blood. It is against common logic and sense to think that a hospital housing a community blood bank would refuse to supply blood in a life-and-death emergency and have no legal duty to provide such blood simply because the person in medical need is outside the hospital door.***

COURT OF COMMON PLEAS OF OHIO,  
2001.

The person in charge at the blood bank refused, stating she was under orders not to supply blood to the outpatient surgical center under any circumstances. About one and one-half hours after the surgeon first indicated the four units were needed, after at least three more phone calls, the hospital finally did agree to supply the blood.

When the courier arrived, however, they gave him only two units. The two units were transfused and they attempted to transport the patient from the surgical center to the hospital but she arrested and died en route.

The family sued both facilities.

### **Hospital's Legal Duty to Non-Patients In Emergencies**

The Court of Common Pleas of Ohio said this was the first case like it ever seen by a US court. The court differentiated the long-standing legal rule that a hospital's duty of care extends only to the hospital's patients.

The court ruled in an emergency a hospital must take reasonable steps to aid a non-patient. Specifically, a community blood bank cannot refuse to supply blood to patients who are not patients of the blood bank's parent facility simply because they are not patients. **McGill v. Newark Surgery Center**, 756 N.E. 2d 762 (Ohio Com. Pl., 2001).

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