

COURT WATCH

FROM THE OFFICES OF FLAHERTY, SENSABAUGH & BONASSO, PLLC.

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Boggs v. Camden-Clark Memorial Hospital, No. 33207.

Ruling from the Circuit Court of Wood County and Appeal from the Circuit Court of Wood County to the West Virginia Supreme Court of Appeals

TOPIC: Whether the Circuit Court properly sanctioned the defendant hospital for fraudulent concealment and destruction of evidence?

The Circuit Court of Wood County recently ordered Camden-Clark Memorial Hospital to pay \$1.3 million in sanctions for misconduct during a medical malpractice case. In *Boggs v. Camden-Clark Memorial Hospital*, the plaintiff brought suit against the defendant hospital and an anesthesiologist claiming that his wife died from an overdose of spinal lidocaine during surgery at the hospital to repair a broken ankle. The Wood County jury found that the plaintiff's wife had died as a result of the overdose and awarded the plaintiff \$6.5 million.

After the trial, the plaintiff moved for sanctions and attorney's fees, claiming that the defendant hospital had concealed or destroyed evidence. The plaintiff specifically alleges that the hospital's risk manager told hospital employees to throw away or destroy their notes concerning the incident. The hospital's counsel defended the destruction of notes as part of a peer review process. The Wood County Circuit Judge agreed with the plaintiff's argument and ordered the hospital to pay \$1,359,241.02 for defrauding the plaintiff, violating court orders, making material misrepresentations of fact, concealing, destroying, and altering evidence, and wasting countless hours of the court's time. Most of the amount awarded is to pay plaintiff's attorneys' fees and costs.

The defendant hospital is appealing the case to the West Virginia Supreme Court of Appeals. On September 19, 2007, the Supreme Court will hear motions to determine if an appeal should be granted. Further Court Watch updates will be provided as this case develops.