

COURT WATCH

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

March 7, 2007

Kominar v. Health Management Associates of W. Va., Inc., et al., No. 33215.

Appeal from the Circuit Court of Mingo County to the West Virginia Supreme Court of Appeals

TOPICS: Whether the trial court properly denied plaintiff's motion for a new trial after a defense verdict was rendered?

In *Kominar v. Health Management Associates of W. Va., Inc., et al.*, plaintiff brought a medical malpractice action against defendants, the hospital, emergency room physician, and ambulance service. Plaintiff alleged that defendants improperly intubated and cared for her son after he was seriously injured in a car accident, which led to her son's death. Defendants maintained that plaintiff's son died as a result of the car accident. Therefore, defendants claimed that plaintiff's son would not have survived, regardless of the care rendered by the defendants.

At trial, the jury found that defendants were not negligent in their care of plaintiff's son and rendered a verdict for the defendants. After the verdict was rendered, plaintiff moved for a new trial, alleging that the trial court had committed numerous procedural errors. The trial court denied the plaintiff's motion for a new trial.

Plaintiff is appealing to the West Virginia Supreme Court, alleging seven procedural errors. The West Virginia Supreme Court is scheduled to hear arguments on this case on March 14, 2007. Additional Court Watch updates will be provided as this case develops.