

COURT WATCH

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

April 24, 2008

Stanley v. Chevathanarat, Appeal No. 33666

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

Topic: Whether the Circuit Court properly denied patient's motion for judgment as a matter of law after a jury verdict in favor of the physician?

On April 24, 2008, the West Virginia Supreme Court of Appeals rendered its decision in the *Stanley v. Chevathanarat* case. After reviewing the parties' briefs, oral arguments, and the entire trial transcript, the West Virginia Supreme Court of Appeals decided to uphold the Circuit Court of Logan County's denial of the patient's request that the Court reverse the jury's verdict for the physician.

In *Stanley*, the patient filed a medical malpractice suit against a physician, alleging that the physician failed to meet the standard of care in obtaining the patient's informed consent before her total abdominal hysterectomy. The patient claimed that the physician did not present any evidence that would allow a jury to find that the physician obtained informed consent from the patient. Therefore, the patient asked that the Court disregard the jury's verdict for the physician and rule on her behalf. After a thorough review of the trial transcript, the West Virginia Supreme Court of Appeals found that the physician did present sufficient evidence in regards to the informed consent issue that would allow the jury to decide on his behalf. Thus, the West Virginia Supreme Court of Appeals sustained the jury's verdict, ruling in favor of the physician.