

# #1 \$10 million verdict

## Untreated acute kidney failure, acidosis led to woman's death

**NAME OF CASE:** Estate of Rita

Epps v. Sajid Naveed, M.D., et al.

**TYPE OF CASE:** Medical malpractice

**COURT:** Petersburg Circuit Court

**ATTORNEYS:** Brewster Rawls, Eric Speer and Jay Tronfeld, Richmond

Rita Epps, 63, died at Southside Regional Medical Center because of untreated acute kidney failure and resulting acidosis.

Ms. Epps arrived at the SRMC emergency room a little before 9 a.m. on Dec. 10, 2016. The initial laboratory studies and evaluation showed that she was in acute kidney failure with severe anion gap metabolic acidosis and high potassium. She was admitted to the hospital and evaluated by the first hospitalist defendant. This doctor started medical treatment. She also ordered a lactic acid level and ordered a nephrology consultation.

The nephrologist on call, Sajid Naveed, claimed he never got the consultation. The

nephrologist's phone records showed a call from SRMC's general number about 40 minutes after the consult was placed in the EMR. However, the hospitalist testified that she never called the nephrologist herself and there is no evidence in the medical record that he took any action that afternoon or evening.

The first hospitalist handed over care around 7 p.m. to the overnight hospitalist, the third defendant. Ms. Epps was experiencing increased pain so the nocturnist ordered Dilaudid on top of the morphine and oxycodone already given during the day.

The nocturnist ordered an arterial blood gas which came back shortly after midnight. It showed that Ms. Epps was severely acidotic. Her pH was 6.6, a level that multiple experts described as incompatible with life. It also meant that the medical management of her acidosis, primarily fluids and



Tronfeld



Speer



Rawls

bicarbonate, had not worked. At this point, the nocturnist had an ICU nurse call the nephrologist and advise him of Ms. Epps' condition. This phone call is recorded in the medical record and two minutes later, the records show that Dr. Naveed ordered more bicarbonate. The nephrologist did not come to the hospital, nor did he order emergency dialysis.

Dr. Naveed came to the hospital around 7 a.m. He ordered continuous renal replacement therapy, a form of dialysis. Upon returning from having her dialysis catheter placed, the decedent suffered cardiac arrest and permanent brain damage. Life support was removed several days later.

The trial of the matter was unusual. Everyone agreed that Ms. Epps needed dialysis shortly after her admission to the hospital. The hospitalists argued that Dr. Naveed had responsibility for Ms. Epps from the time of the Saturday afternoon consultation order. Everyone also agreed that the high lactic acid and pH of 6.6 constituted an emergency.

Dr. Naveed tried to make a case that he was never contacted, and that he first found out about Ms. Epps when he came to the hospital.

Plaintiff's hospitalist expert testified that Ms. Epps' condition was obvious and that the hospitalists should have taken affirmative steps to make sure the patient was

evaluated by a nephrologist. The plaintiff's nephrology expert testified that Ms. Epps needed dialysis early on and that should have been obvious to any nephrologist.

The hospitalists both put on multiple experts to say that their orders were appropriate, and it was reasonable for them to assume that the nephrologist was on the case. Even with just the order of bicarbonate, reliance on Dr. Naveed's expertise was reasonable.

No evidence of economic losses or medical bills was presented. In closing, the jury was told that the family had sued for \$10 million.

The trial lasted seven days. The jury was out a little more than three hours before returning a \$10 million verdict against the nephrologist only. Following the verdict, the judge reduced the verdict pursuant to the Virginia cap on medical malpractice damages. The court immediately overruled Dr. Naveed's motion to set aside the verdict.

About three weeks after the verdict, plaintiff settled with Dr. Naveed for a nominal discount. The settlement was approved by the court on Nov. 9, 2021.

Attorneys Brewster Rawls and Eric Speer tried the case, while attorneys Jay Tronfeld and Wiley Latham were significantly involved in working on the case leading up to trial.