

# New York Law Journal

## Verdicts & Settlements

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### MEDICAL MALPRACTICE

#### Doctors Overlooked Symptoms Of Fatal Sepsis

**Verdict: \$4,561,753**

*Valerie F. Friedlander, as Executrix of the Estate of Walter Friedlander, Deceased, and Valerie F. Friedlander, Individually v. The Kingston Hospital, Douglas Heller, M.D., Douglas Heller, M.D., P.C., Nicholas Charles Golden, M.D., Mahendra Sharma, M.D., Trident Radiology Services, P.C., and River Radiology, PLLC P.C., River Radiology, PLLC, and Ulster Radiologic Associates, PC, No. 90/12*

*Valerie F. Friedlander, as Executrix of the Estate of Walter Friedlander, Deceased, and Valerie F. Friedlander, Individually v. Jud Marshal Stern, M.D., and Kingston Emergency Medical Associates, PLLC, No. 3370/13*

**Court:** Ulster Supreme/Richard Mott

**Plaintiffs' Attorney:** Judith Livingston, Kramer, Dillof, Livingston & Moore

**Defense Attorneys:** Robert Irving Miller, Sholes & Miller (Kingston Hospital); Richard Nealon, Meiselman, Packman, Nealon, Scialabba & Baker; Timothy Smith, Westermann Sheehy Keenan Samaan & Aydelott (Douglas Heller, Douglas Heller, M.D., P.C.); William Watson, O'Connor, McGuinness, Conte, Doyle, Oleson, Watson & Loftus (Nicholas Charles Golden)

**Facts & Allegations:** On Feb. 13, 2011, veterinarian Walter Friedlander, 63, was

admitted to The Kingston Hospital with severe chest and abdominal pain. A physician, Dr. Jud Stern, contacted Friedlander's primary physician, Dr. Douglas Heller, who ordered a sonography.

The sonography, performed the next day, revealed gallstones. Heller ordered bloodwork and a gastroenterologist Dr. Nicholas Golden, said Friedlander had pancreatitis. Golden ordered blood work and a magnetic resonance cholangiopancreatography (MRCP), which is a scan that surveys the hepatobiliary and pancreatic systems. The MRCP was performed on Feb. 14, but the results were not immediately available.

Nine hours after the test, Friedlander developed abnormally slow beating of the heart that caused fatal heart failure. He died the morning of Feb. 15.

Friedlander's widow, Valerie Friedlander, acting individually and as executor of her husband's estate, sued Golden; Golden's employer, Hal Buch, M.D. P.C.; Heller; Heller's practice, Douglas Heller, M.D., P.C.; the Kingston Hospital; one of the hospital's radiologists, Dr. Mahendra Sharma; and Sharma's employers, River Radiology PLLC, Trident Radiology Services P.C. and Ulster Radiologic Associates, P.C. In a subsequent filing, Ms. Friedlander sued Stern and his employer, Kingston Emergency Medical Associates PLLC.

The lawsuits were consolidated, but plaintiffs' counsel discontinued the claims against Sharma, Stern and their respective employers. The matter proceeded to a trial against the Kingston Hospital, Golden, Golden's employer, Heller and Heller's employer.

Plaintiffs' counsel said Mr. Friedlander's death was caused by an undiagnosed sepsis. She said his bloodwork revealed

an high concentration of leukocytes, which proliferate with infection and that could have been resolved with an antibiotic.

She also said Friedlander's treatment was derailed by improper, tardy performance of the MRCP, which would have confirmed or dismissed the diagnosis of pancreatitis, and that Friedlander died before the results of the MRCP were reviewed.

The Kingston Hospital's counsel said Friedlander's death was not caused by sepsis but by arrhythmia stemming from pancreatitis. The defense's expert cardiologist said Friedlander's pancreas released enzymes that caused heart failure. An autopsy identified bacteria suggesting sepsis, but the defense's expert pathologist and infectious-diseases expert said the bacteria was a post-death contaminant.

**Injuries/Damages:** Friedlander, 63, was survived by a wife and a 33-year-old son. The estate sought recovery of more than \$2.5 million in wrongful-death damages. Friedlander's widow sought recovery of \$750,000 for past and future loss of services.

**Result:** The jury found that Golden, Heller and the hospital's staff departed from accepted standards of medical care. Golden and his employer were assigned 34 percent of the liability; Heller and his practice were assigned 33 percent and the hospital also was assigned 33 percent. The jury found damages totaled \$4,561,753.

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