

**D'Antoni v Walsh**

2017 NY Slip Op 30084(U)

January 13, 2017

Supreme Court, Suffolk County

Docket Number: 34743/2010

Judge: James Hudson

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**COPY**

**Supreme Court of the County of Suffolk  
State of New York - Part XL**

**PRESENT:**

**HON. JAMES HUDSON**

*Acting Justice of the Supreme Court*

x-----x  
RAYMOND D'ANTONI, Individually and as  
Executor of the Estate of MARY ANE D'ANTONI,  
deceased,

Plaintiffs,

-against-

KENNETH A. WALSH, M.D., EDOUARD  
KAMHI, M.D., ANDREW C. HECHT, M.D.,  
BARBARA ANN ALLIS, M.D., NORTH SHORE  
MEDICAL GROUP, CHRISTOPHER D. FRENDO,  
D.O., CHRISTOPHER FRENDO, D.O., P.C.,  
ORTHOPEDIC SPINE CARE OF LONG ISLAND,  
P.C., JONATHAN BRADLEY OSTER, M.D.,  
JONATHAN OSTER, M.D., P.C., NORTH  
AMERICAN PARTNERS IN ANESTHESIA, LLP,  
and HUNTINGTON HOSPITAL,

Defendants.

x-----x

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**SEQ. NOS.:001-MG  
004-MG  
005-MG**

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Upon the following papers numbered 1 to 51 read on these motions for Summary Judgment; Notice of Motion/ Order to Show Cause and supporting papers 1-18; 19-35; 36-51; ~~Notice of Cross Motion and supporting papers 0;~~ ~~Answering Affidavits and supporting papers 0;~~ ~~Replying Affidavits and supporting papers 0;~~ ~~Other 0;~~ (and after hearing counsel in support and opposed to the motion) it is,

**ORDERED** that the unopposed motion (#001) by the Defendant Dr. Edouard Kamhi, the unopposed motion (#004) by the Defendant Dr. Andrew Hecht and the unopposed motion (#005) by the Defendants Dr. Jonathan Oster and North American Partners in Anesthesia hereby are consolidated for the purpose of this determination; and it is

**ORDERED** that the unopposed motion by the Defendant Dr. Edouard Kamhi for summary judgment dismissing the complaint against him is granted; and it is

**ORDERED** that the unopposed motion by the Defendant Dr. Andrew Hecht for summary judgment dismissing the complaint against him is granted; and it is further

**ORDERED** that the unopposed motion by the Defendants Dr. Jonathan Oster and North American Partners in Anesthesia for summary judgment dismissing the complaint against them is granted.

Plaintiff Raymond D'Antoni commenced this medical malpractice action individually, and as executor of the estate of Mary Anne D'Antoni, against Defendants Dr. Kenneth Walsh, Dr. Edouard Kamhi, Dr. Andrew Hecht, Dr. Barbara Ann Allis, North Shore Medical Group, Dr. Christopher Frendo, Christopher Frendo, D.O., P.C., Orthopedic Spine Care Long Island, P.C., Dr. Jonathan Oster, Jonathan Oster, M.D., P.C., North American Partners in Anesthesia, L.L.P, and Huntington Hospital. The gravamen of the complaint is that Defendants were negligent in failing to timely diagnosis and treat the decedent Ms. D'Antoni's cervical vertebral osteomyelitis, and that such failures resulted in her death on April 18, 2010.

In 2005, Plaintiff's wife, decedent Mary Anne D'Antoni, ("Ms. D'Antoni") was admitted into Mount Sinai Medical Center with a pre-operative diagnosis of bilateral neck carcinoma. A laryngoscopy and biopsy with pathologic examination of the biopsy specimens were performed, which resulted in a diagnosis of infiltrating, moderately differentiated carcinoma by Dr. Genden. Thereafter, Ms. D'Antoni underwent chemotherapy and radiation therapy for pharyngeal cancer at Stony Brook University Hospital until August 2005.

On September 15, 2008, decedent Ms. D'Antoni underwent esophageal dilation after developing esophageal stenosis. On October 20, 2008, Ms. D'Antoni, on referral by her primary care physician Dr. Kenneth Walsh, presented to Dr. Edouard Kamhi, an orthopedist, at his office at North Shore Medical Group with complaints of neck pain and stiffness since



the esophageal dilation. Following an examination of Plaintiff's decedent and the taking of her medical history, which included, among other things, a positive history for Lyme disease, throat cancer, and surgeries to remove a tumor, lymph nodes and partial removal of the thyroid, Dr. Kamhi diagnosed her with "neck pain, sprain secondary to extension." He prescribed Flexeril, physical therapy, a cervical spine magnetic resonance imaging ("MRI") test, and directed that she follow up with him in four weeks. The MRI study, performed later that day, revealed, among other things, "diffused fatty marrow change particularly at the skull base through C3, resembling radiation changes." Following the MRI examination, on November 6, 2008, Ms. D'Antoni underwent a positron emission tomography/computed tomography ("PET/CT") scan, which did not reveal any concerns regarding an infectious process in her cervical spine. In January 2009, following phone calls from Ms. D'Antoni complaining of neck pain, Dr. Kamhi phoned in prescriptions to a pharmacy for the painkiller Percocet.

On April 1, 2009, Ms. D'Antoni underwent an esophageal dilation at Mount Sinai Medical Center, which resulted in a perforated esophagus. On July, 1, 2009 she returned to Dr. Kamhi's office because the pain in her neck had reappeared. Dr. Kamhi noted that she had experienced an esophageal tear during a dilation period, that there was considerable pain and stiffness in her neck, and that the physical examination revealed "markedly diminished range of motion in all directions with tenderness over the posterior paravertebral muscle bilaterally." Dr. Kamhi prescribed the muscle relaxant Flexeril, and ordered a cervical spine MRI examination. The MRI examination, which was performed later the same day at North Shore Medical Group and interpreted by nonparty radiologist Dr. Michael Sacher of Mount Sinai Medical Center, showed "increased uptake at C1 through C5 suggestive of metastatic disease." As a result, Dr. Sacher recommended the performance of a cervical spine CT for an "assessment of possible osseous involvement of the cervical vertebra as this has transformed from fatty marrow to hypointense marrow." Following receipt of the cervical spine MRI report, Dr. Kamhi telephoned Ms. D'Antoni to inform her of the result of the MRI study and suggested that she immediately be evaluated by Dr. Andrew Hecht, a spinal surgeon at Mount Sinai Medical Center. This was the last time Dr. Kamhi treated or spoke with Ms. D'Antoni.

On July 6, 2009, Ms. D'Antoni underwent a CT scan of her cervical spine, which showed a loss of the normal cervical lordosis, and the vertebral bodies at levels C4 and C5 were noted to be "generally sclerotic in appearance." The findings of the CT were attributed to post-radiation changes, and an MRI correlation was advised, if it was clinically feasible. On July 13, 2009, Ms. D'Antoni presented to Dr. Hecht at Mount Sinai Medical Center with complaints of pain in her neck, trapezius and shoulders, and decreased range of motion in her neck. Following an examination of her, Dr. Hecht diagnosed Ms. D'Antoni with radiation induced osteonecrosis of C3, C4, and C5; he was unable to rule out metastatic disease and



mild degenerative disc disease at levels C3 through C7. Noting that the cervical spine CT dated July 6, 2009 showed minimal osteolytic or osteoblastic destruction of levels C3 through C6, he had an extensive discussion with the Plaintiff and Ms. D'Antoni about the unlikelihood of metastatic disease in the cervical spine, and advised that his diagnosis was not one hundred percent. Dr. Hecht recommended that Ms. D'Antoni undergo a new MRI scan in six to eight weeks to monitor any changes or progression, and prescribed the inflammatory Mobic and physical therapy. Ms. D'Antoni did not make any complaints regarding an inability to move her arms or legs during the visit with Dr. Hecht. This was Ms. D'Antoni's one and only visit and examination by Dr. Hecht.

On July 21, 2009, Ms. D'Antoni phoned Dr. Hecht with complaints of increased neck pain, and, due to her worsened symptoms, Dr. Hecht wrote and faxed a prescription for her to obtain a new cervical spine MRI, instead of waiting for six to eight weeks, as he had previously recommended, as well as a prescription for Percocet. Dr. Hecht's office scheduled the new cervical spine MRI study for July 22, 2009. However, Dr. Hecht received a phone call from Dr. Walsh on July 23, 2009, advising him that she had been admitted into the hospital. Dr. Hecht did not treat Ms. D'Antoni during her admission to the hospital. In fact, the July 21<sup>st</sup> phone call was the last time he had contact with Ms. D'Antoni.

On July 23, 2009, Dr. Walsh admitted Ms. D'Antoni into Huntington Hospital for pain management and a work-up due to her complaints of severe neck pain. Upon admittance, she was examined by Dr. Barbara Ann Allis, a neurologist affiliated with the North Shore Medical Group, who ordered an MRI examination of the brain and cervical spine as soon as possible. Ms. D'Antoni needed to be pre-medicated with Valium and Morphine to tolerate the procedure. She underwent a speech and swallow study, which revealed a mild to moderate functional pharyngeal dysphagia (difficulty swallowing). Thereafter, Dr. Walsh sought a consultation from Orthopedic Spine Care of Long Island and Ms. D'Antoni was examined by Dr. Christopher Frenzo, a neurosurgeon with the practice who was working in Huntington Hospital. Dr. Frenzo discovered that the Plaintiff's decedent was unable to tolerate an MRI study of her cervical spine without sedation, because she was unable to lay flat. Thereafter, Dr. Jonathan Oster, an anesthesiologist, who worked in Huntington Hospital, and was employed by North American Partners in Anesthesia, was phoned in regards to administering the anesthesia, but was informed that the patient's stomach was not empty ("NPO"), since she had eaten within the past six to eight hours. Dr. Oster explained to Dr. Frenzo that he was unable to sedate the Ms. D'Antoni under those circumstances, because the hospital did not have the capability of intubating the patient and providing general anesthesia in the MRI suite, but that he would have an anesthesiologist available first thing in the morning to perform the procedure. Dr. Oster was not informed that the MRI study needed to be performed immediately, and Dr. Frenzo agreed with Dr. Oster's



suggestion to wait until the morning to perform the procedure. Following this conversation with Dr. Frendo, Dr. Oster was no longer involved in Ms. D'Antoni's treatment and care.

On July 24, 2009, the Ms. D'Antoni underwent a CT scan of her cervical spine, which showed destructive changes at level C3-C4 disc space compatible with osteomyelitis, and a cervical spine MRI, which revealed, among other things, osteomyelitis at levels C2 through C6 with pre-vertebral phlegmon and epidural abscess extending from levels C4 through C6. Later that day, Ms. D'Antoni was transferred to Mount Sinai Medical Center where she underwent posterior C2-T1 decompression with instrumentation and fusion, and, after being intubated, she was admitted into the neurosurgical intensive care unit ("ICU"). After her admittance into the neurosurgical ICU, she did not regain any significant motor function to either her upper or lower extremities. On July 29, 2009, Ms. D'Antoni underwent a tracheostomy, since she could not be weaned from the ventilator. On February 10, 2010, Ms. D'Antoni was discharged from Mount Sinai Medical Center to her home. On February 22, 2010, she was readmitted into Huntington Hospital with respiratory failure. On March 19, 2010, She requested home hospice care, and on March 22, 2010 she was discharged from hospital. On April 13, 2010, Mary Ann D'Antoni passed away. Thereafter, the Plaintiff commenced this action.

Dr. Kamhi now moves for summary judgment on the basis that he did not depart from the acceptable standard of medical care in the treatment he rendered to the Plaintiff's decedent, and that his care and treatment did not proximately cause her alleged injuries or subsequent death. In support of the motion, Dr. Kamhi submits copies of the pleadings, the parties' deposition transcripts, the certified medical records of the Plaintiff's decedent, and the affirmation of his expert, Dr. Jeffrey Richmond. Dr. Hecht also moves for summary judgment on the basis that he did not deviate from good and acceptable medical care during his limited treatment of the Plaintiff's decedent, and that his limited treatment of her did not proximately cause or contribute to the alleged injuries she sustained. In support of the motion, Dr. Hecht relies on the pleadings, the parties' deposition transcripts, the deposition transcript of nonparty witness Dr. Michael Sacher, the certified medical records of the Plaintiff's decedent, and the affirmation of his expert, Dr. Alfred Faust. In addition, Dr. Oster and North American Partners in Anesthesia move for summary judgment on the basis that Dr. Oster did not depart from good and accepted medical practice, since he did not refuse to administer the sedation to the Plaintiff's decedent during her admission to Huntington Hospital, and that his treatment of the Plaintiff's decedent did not contribute or cause any of her alleged injuries. In support of the motion, Dr. Oster and North American Partners in Anesthesia submit copies of the pleadings, the parties' deposition transcripts, the certified medical records of the Plaintiff's decedent, and the affirmation of their expert, Dr. Andrew Rosenberg, and Dr. Oster's affirmation.



To make a prima facie showing of entitlement to summary judgment in an action to recover damages for medical malpractice, a physician must establish through medical records and competent expert affidavits that Defendant did not deviate or depart from accepted medical practice in Defendant's treatment of the patient and that Defendant was not the proximate cause of Plaintiff's injuries (*see Castro v New York City Health & Hosps. Corp.*, 74 AD3d 1005, 903 NYS2d 152 [2d Dept 2010]; *Deutsch v Chaglassian*, 71 AD3d 718, 896 NYS2d 431 [2d Dept 2010]; *Plato v Guneratne*, 54 AD3d 741, 863 NYS2d 726 [2d Dept 2008]; *Jones v Ricciardelli*, 40 AD3d 935, 836 NYS2d 879 [2d Dept 2007]; *Mendez v City of New York*, 295 AD2d 487, 744 NYS2d 847 [2d Dept 2002]). A physician owes a duty of reasonable care to his patients and will generally be insulated from liability where there is evidence that he conformed to the acceptable standard of care and practice (*see Spensieri v Lasky*, 94 NY2d 231, 701 NYS2d 689 [1999]; *Barrett v Hudson Valley Cardiovascular Assoc., P.C.*, 91 AD3d 691, 936 NYS2d 304 [2d Dept 2012]; *Geffner v North Shore Univ. Hosp.*, 57 AD3d 839, 871 NYS2d 617 [2d Dept 2008]). A doctor is not a guarantor of a correct diagnosis or a successful treatment, nor is a doctor liable for a mere error in judgment if he or she has considered the patient's best interest after careful evaluation (*see Nestorowich v Ricotta*, 97 NY2d 393, 740 NYS2d 668 [2002]; *Oelsner v State of New York*, 66 NY2d 636, 495 NYS2d 359 [1985]; *Bernard v Block*, 176 AD2d 843, 575 NYS2d 506 [2d Dept 1991]). Where the Defendant has met that burden, a Plaintiff opposing a motion for summary judgment need only raise a triable issue of fact with respect to the element of the cause of action or theory of nonliability that is the subject of the moving party's prima facie showing (*see Bhim v Dourmashkin*, 123 AD3d 862, 999 NYS2d 471 [2d Dept 2014]; *Hayden v Gordon*, 91 AD3d 819, 937 NYS2d 299 [2d Dept 2012]; *Stukas v Streiter*, 83 AD3d 18, 918 NYS2d 176 [2d Dept 2011]; *Schichman v Yasmer*, 74 AD3d 1316, 904 NYS2d 218 [2d Dept 2010]).

Upon review of the affirmation of his expert, Dr. Richmond, and the additional exhibits submitted in support of the motion, Dr. Kamhi has established that he did not deviate or depart from acceptable standards of medical care when he provided treatment to the Plaintiff's decedent during her two visits to his office in October 2008 and July 2009 (*see Stukas v Streiter*, 83 AD3d 18, 918 NYS2d 176 [2d Dept 2011]; *Adjetey v New York City Health & Hosps. Corp.*, 63 AD3d 865, 881 NYS2d 472 [2d Dept 2009]; *Costello v Kirmani*, 54 AD3d 656, 863 NYS2d 262 [2d Dept 2008]; *Dandrea v Hertz*, 23 AD3d 332, 804 NYS2d 106 [2d Dept 2005]). Dr. Richmond, a board certified orthopedic surgeon, opined to a reasonable degree of medical certainty that Dr. Kamhi acted within good and acceptable medical practice and that he did not cause or contribute to the injuries allegedly sustained by the Plaintiff's decedent during his treatment of Ms. D'Antoni (*see Forrest v Tierney*, 91 AD3d 707, 936 NYS2d 295 [2d Dept 2012]; *Graziano v Cooling*, 79 AD3d 803, 913 NYS2d 302 [2d Dept 2010]). Dr. Richmond states that Dr. Kamhi performed an appropriate evaluation of the decedent on October 20, 2008, and appropriately ordered an MRI



examination of her cervical spine, which only showed radiation changes consistent with her prior radiation therapy at Mount Sinai Hospital. As a result, Dr. Richmond states that Dr. Kamhi's treatment recommendations for Flexeril, a muscle relaxant, physical therapy, and a cervical spine MRI were within the standard of care, and that no additional imaging studies were necessary, based on Dr. Kamhi's evaluation and decedent's history. Dr. Richmond further explains that a PET scan is the best test for osteomyelitis, and that the November 6, 2008 PET scan the decedent underwent concluded there was no suggestion of osteomyelitis in her cervical spine. Therefore, Dr. Richmond states, within a reasonable degree of medical certainty, that the PET scan corroborated the MRI study, which revealed that the Plaintiff's decedent did not have any signs of osteomyelitis, and Dr. Kamhi's evaluation of the decedent. He states that at no time during Dr. Kamhi's treatment of the Plaintiff's decedent was there reason for him to order an ESR test for the decedent, since such test is of limited diagnostic value.

Dr. Richmond further states within a reasonable degree of medical certainty that Dr. Kamhi appropriately discharged his duty to the Plaintiff's decedent on July 1, 2009, when he informed her of the results of the cervical spine MRI study, which he had ordered following her earlier visit to him that day, and recommended that she make an appointment with Dr. Andrew Hecht, a spine specialist. Dr. Richmond explains that following Dr. Kamhi's recommendation that the decedent treat with Dr. Hecht, his role in the decedent's care terminated, since she was now being treated by a orthopedic subspecialist, and that he did not depart or deviate from the standard of care by failing to speak with the Plaintiff's decedent's primary care physician, Dr. Walsh, who also was a member of the North Shore Medical Group, because Dr. Walsh had the benefit of viewing all of the decedent's progress reports and MRI results contained in her chart. In addition, Dr. Richmond states that an internist, such as Dr. Walsh, would not have added any additional medical expertise, since she already had been referred to a spine subspecialist.

Likewise, Dr. Hecht has established his prima facie entitlement to judgment as a matter of law through the submission of his expert, Dr. Alfred Faust's affirmation, and the additional exhibits submitted in support of the motion, which demonstrate that he did not deviate or depart from acceptable standards of medical treatment while caring for the Plaintiff's decedent, and that his care was not a substantial factor in causing or contributing to the Plaintiff's decedent's alleged injuries (*see Doe v Schwarzwald*, 142 AD3d 578, 36 NYS2d 518 [2d Dept 2016]; *Perez v Edwards*, 107 AD3d 565, 968 NYS2d 37 [2d Dept 2013]; *Burtman v Brown*, 97 AD3d 156, 945 NYS2d 673 [2d Dept 2012]). Dr. Faust, a board certified orthopedic surgeon, opined within a reasonable degree of medical certainty that Dr. Hecht at all times acted within the accepted standard of medical care in his treatment of the decedent. Dr. Faust states that Dr. Hecht appropriately relied on Dr. Sacher's interpretation of the cervical spine MRI studies performed on July 1, 2009, that he



appropriately reviewed the radiological films and reports in developing his own medical opinion and diagnosis, and that it was appropriate for him to rely on those portions of Dr. Sacher's reports to develop his own opinion that there was no evidence of osteomyelitis or an abscess, but were indicative of radiation changes. Dr. Faust states that Dr. Hecht's choice to treat the Plaintiff's decedent conservatively and to monitor her condition was appropriate. Dr. Faust explains that Dr. Hecht appropriately inquired as to the decedent's neurological symptoms during their telephone conversation on July 21, 2009, and that their conversation was extremely important, because it demonstrates that the decedent was neurologically intact when she last spoke with Dr. Hecht. Dr. Faust further states that Dr. Hecht's duty towards the decedent was discharged, since he did not have another opportunity to treat her, and there was nothing more that he could or should have done for the Plaintiff's decedent, which would have altered the outcome in this case.

Similarly, through the submission of the parties' deposition transcripts, their expert's affirmation and the additional exhibits submitted in support of the motion, the Court finds that Dr. Oster and North American Partners in Anesthesia have established, as a matter of law, that Dr. Oster did not deviate or depart from acceptable standards of medical care, and that his treatment did not proximately cause the alleged injuries sustained by the Plaintiff's decedent (*see, Whitnum v Plastic & Reconstructive Surgery, P.C.*, 142 AD3d 495, 36 NYS3d 470 [2d Dept 2016]; *Lesniak v Stockholm Obstetrics & Gynecological Servs., P.C.*, 132 AD3d 959, 18 NYS3d 689 [2d Dept 2015]; *Monzon v Brown*, 130 AD3d 884, 12 NYS3d 905 [2d Dept 2015]). Dr. Andrew Rosenberg, a board certified anesthesiologist, opines within a reasonable degree of medical certainty that when Dr. Oster informed Dr. Frendo that he was unable to sedate the decedent, because she was not NPO, he was acting within good and accepted medical practice. Dr. Rosenberg states that Dr. Oster appropriately asked Dr. Frendo if the patient was NOP and that when he was informed that she was not, it was completely reasonable for him to rely on that history when he stated that the cervical spine MRI with sedation was unable to be performed. Dr. Rosenberg explained that when a patient is unable to tolerate an MRI without sedation, the anesthesiologist usually administers Propofol, which is a short-acting hypnotic and amnestic agent to make the patient unaware of what is happening, and is administered while the patient's vitals signs are being monitored by the anesthesiologist. Dr. Rosenberg further explained that when a patient is given sedation, if the patient's stomach is not empty, there is an increased risk for aspiration, which is when the patient regurgitates or vomits, and can result in the acidic contents of the stomach entering the lungs, potentially causing severe injury to the lungs and even death. Therefore, Dr. Rosenberg states, that it would have been a clear violation of acceptable medical practice for Dr. Oster to administer sedation to the Plaintiff's decedent, since she was not NPO, and because Huntington Hospital did not have the capability to provide general anesthesia in its MRI suite to protect the her airway. Furthermore, Dr. Rosenberg states a patient with the decedent's medical history significantly increased the risk for aspiration if



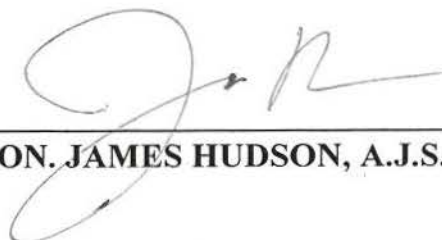
given sedation while being NPO. Dr. Rosenberg explains that if a patient needs an immediate MRI requiring sedation, there are options available to the anesthesiologist, but, since Dr. Oster was never told that the Plaintiff's decedent required the MRI examination immediately, and Dr. Frendo advised him that the test could wait until morning, those options are not applicable in this case. Dr. Rosenberg states that once Dr. Oster declined to administer the sedation based on the fact that the decedent was NPO, he did not have a duty to investigate further whether this history was correct or not, or to review her chart or communicate with the decedent's treating doctor or the hospital staff. Dr. Rosenberg concludes that the evaluation of the decedent was appropriately performed the following day by another anesthesiologist, once she was NPO, with no adverse side effects.

Furthermore, although a physician owes a general duty of care to their patients, that duty maybe limited to those medical functions undertaken by the physician and relied upon by the patient (*Markley v Albany Med. Ctr. Hosp.*, 162 AD2d 639, 640, 558 NYS2d 688 [3d Dept 1990]). In this instance, Dr. Kamhi, Dr. Hecht and Dr. Oster demonstrated that they were not the Plaintiff's decedent's treating physician, nor were they involved in any of the decedent's treatment during the time of the alleged negligence, which led to the decedent's passing. Dr. Kamhi's role in the Plaintiff's decedent's treatment was limited to two assessments of her on October 20, 2008, and on July 1, 2009, Dr. Hecht's role was limited to one visit and a phone call, and Dr. Oster's role was limited to a phone conversation with Dr. Frendo. As a result, Dr. Kamhi, Dr. Hecht, and Dr. Oster and his employer, North American Partners in Anesthesia, without more did not create a further duty on either doctor's behalf to supervise or participate in other aspects of the decedent's care (*see Leigh v Kyle*, 143 AD3d 779, 39 NYS3d 45 [2d Dept 2016]; *Dockery v Sprecher*, 68 AD3d 1043, 891 NYS2d 465 [2d Dept 2009]; *Kleinert v Begum*, 144 AD2d 645, 535 NYS2d 43 [2d Dept 1988]).

Accordingly, the motions by Dr. Kamhi, Dr. Hecht, and Dr. Oster and North American Partners in Anesthesia are granted. The case is severed and continued as against the remaining Defendants.

The foregoing constitutes the decision and Order of the Court.

**DATED: JANUARY 13, 2017**  
**RIVERHEAD, NY**



**HON. JAMES HUDSON, A.J.S.C.**

\_\_\_ FINAL DISPOSITION \_\_\_  NON-FINAL DISPOSITION