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Lake County jury awards \$6 million in woman's death during surgery

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A Lake County Circuit Court jury awarded a \$6 million verdict in a medical malpractice case to the family of a 46-year-old woman who died while receiving anesthesia.

The jury returned its verdict late Wednesday against Dr. Steven Marquardt, an anesthesiologist whose alleged negligence was linked to the November 2003 death of Nanette Domain. Marquardt is president of Lake County Anesthesiologists Ltd., which the jury also found liable.

While the jury was deliberating, lawyers for the family and Marquardt entered into a high-low agreement, ranging from \$500,000 to \$4 million. That means the award to Domain's family is capped at \$4 million, which was the limit of Marquardt's insurance policy, said the family's attorneys, Barry R. Chafetz and Shawn S. Kasserman, both partners with Corboy & Demetrio P.C.

"Both sides recognized the jury could have gone either way, which is why the parties entered into the high-low agreement," Marquardt's attorney, Rodney E. VanAusdal, a principal of Iwan, Cray, Huber, Hortsman & VanAusdal LLC, said in a telephone interview Friday.

On Nov. 17, 2003, Domain underwent routine gall bladder surgery at Condell Medical Center in Libertyville. After her discharge from the hospital, Domain continued to experience severe abdominal pain, according to the plaintiff attorneys.

On Nov. 22, Domain returned to Condell's emergency room and a nasogastric tube was inserted. She was discharged three days later but returned to the ER at midnight on Nov. 25.

Domain was diagnosed as having a small bowel obstruction resulting from a hernia and emergency surgery was

scheduled, the plaintiff attorneys said.

Marquardt during his pre-anesthesia assessment on Nov. 26 failed to recognize that Domain had a small bowel obstruction, which increased the risk for aspiration when the anesthesia was being administered, according to the plaintiff attorneys.

Marquardt provided general anesthesia instead of rapidly providing anesthesia while applying pressure to the neck to prevent stomach contents from coming up and then going into the lungs, Kasserman said.

Domain aspirated vomit while the anesthesia was being administered, leading to her death, Kasserman added.

VanAusdal told jurors that Marquardt made an appropriate assessment of Domain's condition and that the anesthesia technique he used was appropriate for Domain's condition.

The jury found Dr. Mark H. Kadowaki and Libertyville Surgeons S.D., along with Robert Audette, a registered nurse and his employer, Condell Medical Center, not liable, lawyers in the case said.

Domain is survived by her husband, William Domain, who is legally blind and does not work, and four sons, ranging in age from 14 to 21. The family lives in Lake Villa.

"The verdict is going to make a huge and wonderful difference in their lives," Kasserman said.

Lake County Circuit Judge Raymond J. McKoski presided over the eight-day trial. *William Domain, et. v. Mark Kadowaki, M.D., et al.*, No. 04 L 489.

John M. McGarry, a member of Dykema, Gossett PLLC's Chicago office, represented Kadowaki and Libertyville Surgeons. Michael F. Henrick, a partner with Hinshaw & Culberston LLP's Waukegan office, represented Audette and Condell Medical Center.