

Standing Firm



By Randa Gibson, JD

Barbara Jones¹, a 60-year-old female patient, presented to her local ER in Arkansas with acute onset abdominal pain and some distention. The history taken by the ER physician revealed a prior gastric bypass surgery and hernia repair surgery two years previously. A CT scan showed probable partial small bowel obstruction changes.

Dr. Abbott was the hospitalist that evening. He accepted the patient for admission around midnight and performed an examination. He was aware of the history of gastric bypass, as well as the CT findings and reports of acute onset abdominal pain, nausea, and bloating. He made a plan for the patient, which included bowel rest, fluids, and an NG tube. He did not feel that there was a need for a general surgery consultation at admission but documented that if there was no improvement, the patient would need one.

The following day, a different hospitalist, Dr. Brand, assumed care of the patient. She did not change the plan for the patient and, like Dr. Abbott, did not order a surgical consult. A third hospitalist, Dr. Calhoun, took over the patient's care on day two and managed her through discharge. Like Dr. Brand and Dr. Abbott, Dr. Calhoun did not order a surgical

consult. At trial, both would explain that this was because the patient had continually improved – her abdominal pain resolved, she had bowel movements, and she tolerated diet advancement.

Not long after being discharged, the patient saw her PCP for a follow up, reporting abdominal pain and lack of bowel movements. The PCP requested the patient notify her if her symptoms persisted and ordered abdominal x-rays, which showed evidence of a distal small bowel obstruction.

The following day, the patient saw a physician affiliated with her gastric surgeon for a routinely scheduled follow up. She reported the history above to the physician, but also that she was feeling better. He, like the PCP, allowed the patient to go home, and instructed her to let him know if her symptoms worsened or reoccurred. After sending the patient home, however, the provider consulted with a gastric surgeon, who advised him to have the patient return to the hospital for an exploratory laparotomy for a possible internal hernia. When the surgery was performed on the patient two days later, a perforation occurred. The patient developed complications postoperatively, including sepsis. Following a lengthy hospitalization, second surgery, and rehabilitation, the patient recovered to baseline, but not before incurring significant medical expenses.

The patient elected to file suit against the three hospitalists, her PCP, and their employers. By the time of trial, the only defendants were the three hospitalists, the patient dismissing the PCP earlier on in the case. The patient's theory? That each hospitalist should have ordered a surgical consult during the admission. The Plaintiff had an expert to testify that a routine surgical consult should have been ordered by Dr. Abbott, Dr. Brand, and Dr. Calhoun. The Plaintiff also called one of the patient's treating gastric surgeons, Dr. Zeigler, who testified at trial that he would have returned the patient to the OR during the original admission had he been consulted. He testified that this earlier intervention would have led to less compromise of the bowel and the perforation would not have occurred.

It can be especially intimidating to defend your care through trial when it is criticized not only by outside experts, but also by a treating physician. But here, despite the uncertainties of trial, all three defendants held their ground and defended their care, supported by strong experts who agreed that the standard of care did not require surgical consultation in this patient, that a trial of medical management was appropriate, and that the perforation was not related to any treatment, or lack thereof, by the defendants. The defendants' confidence in the care they rendered was not misplaced, as the jury found that each met the standard of care. The plaintiff recovered nothing, and the case was closed.

1 Names have been changed throughout this claim.

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