



**Case/Issue Summary Submission**  
**2020 Primerus Personal Injury Institute Winter Conference**  
**St. Pete Beach, Florida – February 19-22, 2020**

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**Primerus Member:** Christopher Mellino, The Mellino Law Firm, LLC

**Case Name:** Robyn Miles, Administer of the Estate of Sydney Perryman v. Cleveland Clinic Health System-East Region dba South Pointe Hospital, et al.

**Trial Date:** August 4, 2020

**Venue:** Cuyahoga County Court of Common Pleas (Cleveland, OH)

**Judge:** Sherrie Miday

**Parties:**

Cleveland Clinic Health System-East Region dba South Pointe Hospital

Cleveland Clinic Foundation

Michelle F. Wallen, D.O. (attending ER physician)

Nathaniel Pavkov, D.O. (resident ER physician)

Affinity Medical Center, DHSC, LLC dba Affinity Medical Center

**Brief Statement of Facts:**

**Plaintiff's Story:**

A 17-year old with special needs patient arrived at South Pointe Hospital Emergency Department by ambulance. The paramedics did their job by safely transporting her, assessing her and giving her a breathing treatment en route. Importantly, they called the ER and notified the caregivers of the patient's condition and vital signs.

According to this information the patient met all of the criteria for being septic. Sepsis means that an infection has entered the bloodstream. Sepsis is treatable and curable if the underlying infection is from bacteria. However, sepsis can be dangerous and deadly if not treated. Because of this danger there are sepsis protocols or safety rules put in place in hospitals and emergency rooms across the country. In fact, to receive Joint Commission approval as a certified emergency room a hospital must have these protocols in place. This ER had a sepsis protocol in place. The problem is no one followed it.

Instead of seeing Sydney Perryman as a patient needing immediate help and support, the caregivers were afraid of her. They were afraid of her because children with Downs Syndrome, which Sydney had, aren't always cooperative, they are scared because they are in an unfamiliar environment and cannot understand what is happening to them.

The caregivers were more concerned about themselves then helping Sydney. They did not take the time to calm Sydney or allowed her mother to calm her. They did not try to assess her to see what was wrong with her. They didn't even take her vital signs. Instead, they immediately sedated her, in effect restraining her with chemicals much like you would with a mental patient.

After sedating her they still did not assess her, instead they left her alone in the room for 20-30 minutes until someone found her not breathing. A code was called but by the time Sydney was

resuscitated it was too late. She had suffered irreversible brain damage. She died several hours later after having another arrest.

All the doctors needed to do was to intubate Sydney. A procedure that is done routinely in emergency rooms across the country. In fact, the ER nurse in this case testified that the nurse's number one job is to keep her patients breathing. Sedation or chemical restraint suppresses breathing, making it more difficult to breathe.

Had the caregivers kept Sydney's airway secured her caregivers then should have given her antibiotics. Hospitals have access to wonderful antibiotics in 2017. Keep the patient breathing and let the antibiotics go to work. No 17-year-old, otherwise healthy patient, should die from pneumonia in the hospital in this country in 2017.

Sydney had pneumonia that got into her bloodstream and caused sepsis. Had the caregivers followed the safety rules, followed the sepsis protocol, Sydney would have been immediately intubated, received antibiotics, and the pneumonia would have been cured. Instead, they made it more difficult for her to breathe, they drugged her and left her alone, unmonitored and never assessed her or gave her any treatment until after it was too late and she had suffered irreversible injuries.

### **Defendant's Story:**

This is a tragic case involving a patient that developed severe community-acquired pneumonia that progressed to severe ARDS and septic shock. Unfortunately, there was a six-day delay before this patient sought medical attention and Ms. Perryman had already developed multiorgan dysfunction by the time she presented to the hospital.

ER patients who are agitated and uncooperative like Ms. Perryman are frequently given medications to facilitate evaluation and management while at the same time decreasing chance of self or staff harm. Because Ms. Perryman's weight was over 200 pounds, the use and dose of intramuscular Ativan and Benadryl were appropriate and much lower than the standard initial dosing for patients presenting with agitation and risk of harm. For their own safety, it is not necessary for the ER staff to obtain blood pressure, oxygen saturation or IV access prior to sedating an agitated patient.

The ER staff responded quickly to Ms. Perryman's respiratory compromise and worked diligently to resuscitate her.

Ms. Perryman received appropriate treatment in the ED and her unfortunate death was a result of bilateral pneumonia with severe sepsis and multiorgan dysfunction not a result of any acts or omissions by Dr. Wallen, Dr. Pavkov, or any other staff at South Pointe Hospital.

The care provided to Sydney Perryman not only met the standard of care but was commendable given the severity of illness and significant challenges encountered.

### **Main Issues to be addressed:**

1. Is it appropriate to sedate a patient before assessing them?
2. Failure to initiate sepsis protocol.
3. Failure to establish airway management.
4. Was there enough time for antibiotics to work?