

**CASE INFORMATION SHEET**  
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**COUNTY AND COURT:**

9TH JUDICIAL CIRCUIT IN AND FOR ORANGE COUNTY, FL

**NAME OF CASE:**

LINDA HESS, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID  
HESS

Plaintiff,

v.

ANNE HUNKAR-HUIE, ARNP, AND CARDIAC CARE SPECIALISTS

Defendant

**CASE DOCKET NO.:** 2008-CA-14543-0      **JUDGE:** John M. Kest

**PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL:**

Joseph Taraska  
Scott Noecker  
Morgan and Morgan  
Orlando, FL

**DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL:**

Jennings L. Hurt III  
Henry W. Jewett II  
Rissman, Barrett, Hurt,  
Donahue, McLain, & Mangan, PA  
Orlando, FL

**AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:**

David Hess was 58 years old at the time of his death on September 22, 2006. He was employed as an architect and construction project manager.

**FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:**

Linda Hess: surviving spouse; currently 68 years old.

Krystle Hess: surviving minor child; currently 21 years old.

**DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:**

This was a medical malpractice case that arose out of the death of David Hess at about 12:30 am on September 22, 2006. The focus of the case was a visit to the Cardiac Care Specialists (CCS) office about 12 hours earlier, during which Mr. Hess was seen by Ms. Hunkar-Huie, a nurse practitioner employed by the group. This was Ms. Hunkar-Huie's only contact with Mr. Hess.

Plaintiff claimed that Ms. Hunkar-Huie had negligently failed to suspect during the September 21, 2006 visit that Mr. Hess was suffering a pulmonary embolic (PE) event, and had negligently failed to order the appropriate work up and treatment that would have saved his life.

Mr. Hess was 58 years old at the time. He had been a patient of CCS for about three weeks. He was seen on September 5, 2006 by Dr. Alperovich, a CCS cardiologist, for an initial visit. Mr. Hess did not have any specific cardiac complaints, but his wife had scheduled the appointment because Mr. Hess had not seen a primary care physician in many years, and appeared to tire more easily and was not sleeping well.

There were two important aspects to Mr. Hess' prior health history. First, in December 1982, Mr. Hess had suffered a major PE event following surgery for a ruptured appendix. This resulted in open chest surgery to remove the major clots from his pulmonary arteries. Additionally, a miles clip was placed across his inferior vena cava (IVC) to prevent any future clots from traveling from the deep leg and pelvic veins to lungs.

The long term effect of the clip on Mr. Hess was impaired venous return from the legs and pelvis. This increased his risk for future deep vein thrombosis formation and emboli. Moreover, in

the almost 24 years between the clip placement and September 2006, the clip had probably clotted off, and Mr. Hess had probably formed large collateral veins around the clip that were of sufficient size to allow large clots to travel to the lungs.

The second significant health issue was that Mr. Hess had had uncontrolled hypertension for many years before September 2006. Prior medical records had shown systolic blood pressures in the 160s to 190s up through the September 5, 2006 office visit with Dr. Alperovich. Mr. Hess had not been on blood pressure medication for at least six years as of the September 5, 2006 visit.

Dr. Alperovich ordered blood pressure medication, an echocardiogram and a nuclear stress test. The tests were scheduled for Friday, September 15, 2006, at the CCS office. Mr. Hess presumably began taking the blood pressure medicine shortly after the September 5, 2006 visit.

Mr. Hess underwent the stress test as scheduled. This was a non-treadmill test in which a chemical was used to "stress" the heart. Plaintiff's experts were under the mistaken belief that during the test, an IV catheter had been in a vein in the back of Mr. Hess' right hand for up to six hours.

However, the documentary evidence in the CCS chart, as established by Ms. Hunkar-Huie and Dr. Martin Zenni, the defense's cardiology expert, was that the IV was only in place for 15 minutes and had been placed in the right antecubital fossa (inside the elbow).

Mrs. Hess testified that on Friday night, September 15, 2006, Mr. Hess began to be more tired than previously and that his right hand had begun to swell. Over the weekend he became "extremely fatigued". By Monday, September 18, 2006, the swelling had extended up to the elbow. Mr. Hess went to work on Monday, Tuesday, September 19, 2006, and Wednesday, September 20, 2006, but he reportedly continued to be extremely fatigued.

On the morning of Thursday, September 21, 2006, the Hesses decided that Mr. Hess would not go to work so that he could be seen at CCS. Mr. Hess was still at home when Mrs. Hess left home for work. She did not go with him to the CCS office.

According to the CCS chart, Mr. Hess called the office around 10 am, and spoke to Marisella Ramos, Dr. Alperovich's medical assistant. Ms. Ramos' note for this call indicated that Mr. Hess

had reported swelling in the right arm, that he felt tired, and that he had been diagnosed with gout by a podiatrist. The report of right arm swelling became the crux of plaintiff's case because Mr. Hess reported that at least some of the swelling was located at the site of the IV used in the September 15, 2006 stress test, and had begun after the test.

Ms. Ramos transmitted her note to Ms. Hunkar-Huie, who was apparently the only nurse practitioner in the office at the time. Ms. Hunkar-Huie directed Ms. Ramos to have Mr. Hess come to the office to pick up a new prescription for a blood pressure medication that would be less likely to aggravate Mr. Hess' gout.

A major issue at trial was the timing of Mr. Hess' office visit. Ms. Hunkar-Huie testified she saw Mr. Hess around noon, based on her independent recollection of the visit and her note timed at 12:15 pm. However, the office's appointment records indicated the appointment had been scheduled for 2:20 p.m. Additionally, electronic toll records suggested that Mr. Hess' car had been driving toward the CCS office at about 3:00 p.m. and had been returning home around 4:00 p.m.

Regardless, the fact that Ms. Hunkar-Huie interacted with Mr. Hess in the office was not disputed. Ms. Hunkar-Huie testified that after she introduced herself and shook Mr. Hess' right hand, she asked Mr. Hess whether he had chest pain, shortness of breath or palpitations. At that time, Ms. Hunkar-Huie had been a nurse practitioner for six years, practicing exclusively in a cardiology practice. Thus, these were standard questions she asked all CCS patients.

Mr. Hess told Ms. Hunkar-Huie that he was not short of breath, and had no chest pain or palpitations. His only complaint was extreme fatigue. Mr. Hess did not complain to Ms. Hunkar-Huie of swelling of his right arm. Ms. Hunkar-Huie observed the right hand and arm when she shook Mr. Hess' right hand and when she took his pulse. She did not see any swelling.

Ms. Hunkar-Huie told Mr. Hess his fatigue was probably due to the significant drop in his blood pressure caused by the medication ordered by Dr. Alperovich on September 5, 2006. Mr. Hess' blood pressure that day was 110/70, which was down from 168/104 on September 5, 2006. Ms. Hunkar-Huie told Mr. Hess that he was not used to a lower blood pressure since he had had uncontrolled hypertension for many years. Ms. Hunkar-Huie told

Mr. Hess he would get used to the change and would feel better soon.

Ms. Hunkar-Huie gave Mr. Hess samples of the new blood pressure medication which did not contain the gout aggravating ingredient, and a script for additional labs (the labs ordered by Dr. Alperovich had not yet been performed). Mr. Hess appeared satisfied, and departed the office. Ms. Hunkar-Huie had no further contact with Mr. Hess.

According to Mrs. Hess, Mr. Hess was in bed when she returned home in the afternoon. Mr. Hess got out of bed briefly for dinner, but returned shortly thereafter.

At about 12:30 am, Mr. Hess got out of bed. He collapsed almost immediately after standing up. He never regained consciousness. Mr. Hess was pronounced dead at the South Seminole Hospital Emergency Department.

A limited autopsy of the heart and lungs was performed. It showed extensive PE in Mr. Hess' lungs, both in the peripheral vessels and main pulmonary arteries. The parties' experts (including the retained pathologists) essentially agreed that Mr. Hess had begun showering smaller PE between 24 to 48 hours before his death, and that the fatal event was due to large PE lodging in the main pulmonary arteries immediately before Mr. Hess' collapse.

The origin of the PE was probably the main issue in the case, and was tied to whether Mr. Hess' right arm had been swollen while in the office on September 21, 2006. Plaintiff's experts argued that all of the PE, including the fatal PE, originated in the right arm. They claimed that the IV catheter placed on September 15, 2006 had triggered a hypercoaguable state, and that Mr. Hess had started clotting in the small peripheral hand veins. This thrombosis then extended up Mr. Hess' arm veins over the next six days, and PE began showering 48 hours before death.

Plaintiff's experts testified that the arm swelling had been a "red flag" that Ms. Hunkar-Huie should have recognized as a potentially catastrophic thrombotic event, given Mr. Hess' prior history of PE. As a result, Ms. Hunkar-Huie should have ordered a work up that would have led to a PE diagnosis and treatment that would have prevented the fatal PE event around midnight on September 21-22, 2006.

The defense argued that there had been no significant arm swelling during the September 21, 2006 office visit. The defense also showed through cross examination of plaintiff's experts and defense experts on direct exam, that it would have been impossible for a small IV catheter in the arm to have caused a fatal PE event. All of plaintiff's experts conceded that they had never seen nor heard of this occurring.

The defense also argued that since Mr. Hess had denied during the September 21, 2006 office visit that he had the two most common symptoms of PE (shortness of breath and chest pain), it had been reasonable for Ms. Hunkar-Huie to have not suspected a pending PE catastrophe at that time. Instead, it had been reasonable for her to attribute Mr. Hess' fatigue complaints to the significant drop in his blood pressure caused by newly prescribed blood pressure medication.

**CAUSE OF INJURY:**

Mr. Hess suffered a fatal pulmonary embolic event at about midnight on September 21-22, 2006.

**NATURE OF INJURY:**

The pulmonary embolic event was sufficient to cause Mr. Hess' death.

**PLAINTIFF'S EXPERT WITNESSES:**

**Maureanne Hoffman, MD**

Clinical pathology  
Duke University  
Durham, NC  
Causation

**Brian Swirsky, MD**

Cardiology  
Baton Rouge, LA  
Standard of Care and Causation

**Denise Coppa, ARNP**

Nurse Practitioner  
University of Rhode Island  
Providence, RI  
Standard of Care

**Gaetane Michaud, MD**

Pulmonology  
New York, NY  
Causation

**Alexander Duncan, MD**

Clinical pathology; hematology  
Emory University  
Atlanta, GA  
Causation

**Paul Collier, MD**

Vascular surgery  
Sewickly, PA  
Causation

**Frederick Raffa, PhD.**

Economist  
Orlando, FL  
Damages

**DEFENDANT'S EXPERT WITNESSES:**

**Martin Zenni, MD**

Cardiology  
University of Florida  
Jacksonville, FL  
Standard of Care; Causation

**Bruce Krieger, MD**

Pulmonology  
Jacksonville, FL  
Causation

**Ruben Tudor, MD**

Pulmonary pathology  
University of Colorado School of Medicine  
Denver, CO  
Causation

**Mark Friedell, MD**

Vascular surgery  
University of Missouri School of Medicine  
Kansas City, MO  
Causation

**Arnold Blaustein, MD**

Hematology  
Miami, FL  
Causation

**CHECK APPROPRIATE SPACE:**       X   Verdict

**DATE OF VERDICT:**

January 22, 2016

**VERDICT:**

Defense verdict.

**COMPARATIVE NEGLIGENCE:**

None.

**JUDGMENT:**

For defendants.

**DATE OF JUDGMENT:**

February 22, 2016

**DEFENDANT'S OFFER:**

There had been no settlement offers.

**PLAINTIFF'S DEMAND:**

\$6,534,876 during closing argument.

**ATTORNEY'S COMMENTS:**

The trial lasted 14 days. The jury deliberated six hours, 34 minutes before returning a complete defense verdict for Ms. Hunkar-Huie and CCS.

The parties agreed after the trial to resolve the case. Plaintiff agreed to not pursue post-trial motions or an appeal in exchange for the defense waiving costs.

Submitted By: Jennings L. Hurt III  
Henry W. Jewett II

Date: March 22, 2016

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