



## **Summary Judgment Granted in Medical Malpractice Case: Hospital Cannot Be Held Vicariously Liable For Alleged Negligence of Co-Defendant Surgeon**

On April 30, 2015, a Bridgeport Superior Court judge granted summary judgment in favor of a Connecticut hospital as to the plaintiffs' claims that the hospital was vicariously liable for the alleged negligence of one of the co-defendants, a general surgeon. Representing the hospital, Michael D. Neubert and Adam V. Maiocco moved for summary judgment on several grounds, including that the surgeon, a private physician with hospital privileges, was neither an actual nor apparent agent of the hospital.

After extensive briefing and oral argument, the Court issued a twenty-eight page decision granting the motion as it related to the vicarious liability claims against the hospital that were based on the surgeon's alleged negligence. On the issue of actual agency, the Court carefully reviewed the evidence and found that the hospital did not exert the requisite level of control over the surgeon's treatment of the plaintiff. On the issue of apparent authority, the Court held as a matter of law that Connecticut does not provide for liability under a theory of apparent authority in medical malpractice actions. The Court also found, based on its review of the evidence, that there was no issue of material fact in dispute that the surgeon was not an apparent agent of the hospital.

The Court's [Memorandum of Decision](#) is linked.

### **Contact Us**

Please contact Michael D. Neubert or Adam V. Maiocco if you have any questions or would like further guidance about any issues raised in this advisory. Contact us at 203.821.2000 or [www.npmlaw.com](http://www.npmlaw.com).



Michael D. Neubert

Michael D. Neubert is a founding partner and head of the litigation practice group at Neubert, Pepe & Monteith, P.C. Attorney Neubert has extensive experience in the areas of civil and commercial litigation, professional liability defense, hospital liability law, representation of physicians in professional licensing disputes, product liability, administrative law, premise liability, municipal liability, and employment litigation. His clients include numerous hospitals, physicians, law firms, professional associations, major insurance companies, corporations, and municipalities.



Adam V. Maiocco

Adam V. Maiocco an associate at Neubert, Pepe & Monteith, P.C., is experienced in representing both individual and institutional health care providers in medical malpractice and general liability claims. He also represents attorneys in legal malpractice actions. Attorney Maiocco is admitted to practice in Connecticut, New York, the United States District Court for the District of Connecticut, and the Southern District of New York. Attorney Maiocco previously worked at a law firm in Fairfield County where his practice was primarily devoted to defending physicians, hospitals, and other health care institutions.