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## Sommer R. Luzynczyk

### PARTNER

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Sommer Luzynczyk listens to her clients, understands their needs and delivers results. Sommer's advocacy is shaped by the understanding that her client is the most important member of the defense team. She is client focused and driven – she positions cases through discovery to allow her clients to tell their story in a convincing manner.

Through detailed preparation of cases, Sommer secures the evidence necessary to allow her clients to explain the medicine, their actions and the reasons for their actions. Sommer's approach enables her clients to connect with a jury of lay people.

Not one to shy away from a challenge, Sommer embraces each case as an opportunity for growth. Throughout her career, Sommer has had the opportunity to handle matters involving highly unusual fact patterns and unique legal issues. She draws upon these experiences as she crafts creative and successful defenses for each matter she handles.

Over the last decade, Sommer has had the privilege of successfully representing hospitals and healthcare professionals across virtually all specialties. Sommer gives her clients the information they need to determine the strategic course of litigation and she works to drive resolution. Collaborating with her clients, Sommer has achieved results ranging from early dismissal and defense verdict to cost-effective settlement when appropriate.

In addition to her medical negligence practice, Sommer has experience handling premises and general liability and transportation matters, and representing long-term care and assisted living facilities.

### Education

- The John Marshall Law School, J.D. 2009, *cum laude*

- Managing Editor, The John Marshall Law Review
- CALI Excellence Award, Trial Lawyer: Evidence
- Herzog Scholar, Baim Scholar, & Dean's Scholar
- The University of Memphis, B.A. 2005, *magna cum laude*

## Bar Admissions

- Illinois
- United States District Court for the Northern District of Illinois

## Professional Experience

### Appointments

- State of Illinois Supreme Court Rules Committee, 2021
- Co-chair, Illinois Defense Counsel North Central Region Trial Academy, 2020
- Co-chair, Illinois Defense Counsel Deposition Academy, 2020

### Publications

- “New World Order” *The Practical and Ethical Challenges of Social Media Discovery*, IDC Quarterly, Vol. 26, No. 3, Donald Patrick Eckler and Sommer Luzynczyk.

### Presentations

- Speaker, Deposition Strategies, IDC Deposition Academy, Naperville, Illinois, October 4, 2019.
- Speaker, Witness Preparation, IDC Deposition Academy, Naperville, Illinois, October 4, 2019.
- Faculty Member, IDC Deposition Academy, Naperville, Illinois, October 4, 2019.
- “Do We Know What We Don’t Know in Patient Safety: Legal Implications of Open Disclosure in the Face of Poor Outcomes,” Neonatal Conference, UIC Perinatal Center, May 24, 2019.
- Speaker, “*Anatomy of a Medical Negligence Trial: Motions in Limine*”, ISBA, November 1, 2017.

### Professional Affiliations

- Illinois State Bar Association
- Illinois Association of Defense Trial Counsel

### News & Results

- Hospital Not Guilty Verdict Reinstated on Appeal

The Appellate Court of Illinois has reinstated a jury verdict for a hospital foundation represented by Pretzel & Stouffer, finding that the trial court abused its discretion when it vacated that verdict and granted a new trial to the plaintiff.

Scott L. Howie and Sommer R. Luzynczyk of Pretzel & Stouffer represented the hospital foundation in the appeal, first persuading the appellate court to grant leave to appeal, and then convincing it that the jury verdict obtained at trial by Pretzel’s Brian T. Henry should be restored.

The jury trial had ended with a verdict for the hospital foundation, a rejection of the plaintiff’s claim that a doctor and nurse of the foundation had failed to adequately communicate changes in the decedent’s medications to a third-party home-healthcare provider. The plaintiff moved for a new trial,

claiming the foundation had not disclosed documents it had subpoenaed from the home-healthcare provider. When the trial court granted her motion, the foundation successfully petitioned the appellate court to accept a discretionary appeal of that ruling.

The appellate court agreed that the trial judge had abused his discretion in granting the plaintiff's motion for a new trial, determining that the plaintiff had not been unfairly prejudiced. It acknowledged the foundation's use of an open and transparent subpoena process, which was inconsistent with an intent to conceal the documents the provider produced. The court also recognized that the documents were not significant to the plaintiff's case, and that she was not substantially prejudiced by not receiving them prior to trial. These considerations caused the court to conclude that the trial judge had sanctioned the foundation too harshly by vacating the verdict and ordering a new trial, and that he had abused his discretion in doing so. The appellate court reversed that order and reinstated the verdict in favor of the foundation.

## **TRIAL VICTORY FOR RESIDENTS AND INTERNS ON TIMELY DIAGNOSIS OF MRSA INFECTION**

Brian Henry and Sommer Luzynczyk obtained a jury verdict in favor of a resident physician and an intern who allegedly failed to timely diagnose and treat a necrotizing MRSA skin infection in a nine day old neonate. The plaintiff argued that the defendants failed to appreciate that an area of discoloration and redness on the infant's front and lateral chest had progressed prior to and during their care of the child. Plaintiff contended that the defendants should have suspected a MRSA necrotizing skin infection and started the infant on Vancomycin 6 hours earlier which would have reduced the spread of the infection by 50 to 70% and would have avoided the infant developing DIC and septic shock. In addition, the plaintiff argued that the defendants' negligence resulted in the infant requiring skin grafts, extensive permanent scarring, subsequent surgery to revise the skin grafts and the development of a partial growth plate arrest of the distal tibia necessitating surgery for the growth plate arrest.

The defendants argued that there was no progression of the rash until the morning after the child was admitted to the hospital and it was promptly recognized and treated at that time. The defense contended that the discoloration on the child's chest during the early morning hours was absolutely consistent with bruising from suspected child abuse and that the child's suspected sepsis was being properly treated. The defense argued that even if Vancomycin had been given earlier, the patient still would have required all of the treatment and surgeries he received and would have sustained the same scarring.

## **DEFENSE VERDICT FOR ORTHOPEDIC SURGEON'S ANKLE FRACTURE REPAIR**

Brian Henry and Sommer Luzynczyk obtained a jury verdict for an orthopedic surgeon who repaired a fractured ankle and who was criticized by the subsequent treating ankle specialist. The plaintiff argued that the orthopedic surgeon fixated the medial malleolus fragment in such a way that the fragment impinged and closed down the medial clear space which resulted in lateralization of the talus and destabilized the ankle joint. The defendant orthopedic surgeon and the defense orthopedic expert explained to the jury that the destabilization of the plaintiff's ankle was caused by the ankle specialist who, during a subsequent surgery, removed and discarded the fractured medial malleolus fragment before it had the opportunity to heal and removed the syndesmotic screws before the syndesmotic ligament had an opportunity to heal and without testing the syndesmotic ligaments.

## **Summary Judgement for Pain Management Physician**

Sommer Luzynczyk secured summary judgment in favor of her client, a pain management physician, in a medical negligence case. The plaintiff underwent a right shoulder arthrogram and subsequently developed an intraarticular infection. The plaintiff alleged that the physician failed to timely diagnose and treat the infection which required surgical intervention and resulted in reduced range of motion and weakness of the right shoulder. The plaintiff further alleged medical negligence under a theory of Res Ipsa Loquitur, contending that the type of injury sustained does not happen in the absence of negligence. The successful motion for summary judgment stated that the plaintiff failed to prove that the physician deviated from the standard of care and failed to establish proximate cause.

## Defense Verdict for Surgeon

Brian Henry and Sommer Luzynczyk represented a general surgeon at trial in a lawsuit involving allegations that the surgeon failed to timely perform surgery on the plaintiff for a perforation of his right colon following a colonoscopy and polypectomy by others. The plaintiff claimed that as a result of the delay, he had to undergo an open surgery during which his right colon and a section of his small bowel had to be removed, including the ileocecal valve, resulting in chronic abdominal pain, bloating, multiple daily bouts of diarrhea and fecal incontinence. Plaintiff claimed that he initially was not offered the option of surgery when first seen by the defendant, and that surgery did not occur until after a second opinion was obtained from another surgeon who recommended surgery. The general surgeon testified that the plaintiff was offered both the option of surgery and the option of conservative care for 12 to 24 hours because he had a microperforation which had a reasonable chance of healing without surgery. The jury returned a verdict in favor of the general surgeon after deliberating for only 36 minutes.

## Summary Judgment for Orthopedic Surgeon

Sommer Luzynczyk secured summary judgment in favor of her client, an orthopedic surgeon, in a medical negligence case. The plaintiff had a patent foramen ovale (PFO) and had been on anticoagulants for several years. The plaintiff was scheduled for total knee replacement surgery. Prior to surgery, the plaintiff was evaluated by two cardiologists who advised that the PFO did not require treatment with anticoagulants and further advised that bridging was not required in connection with the knee replacement surgery. The anticoagulants were stopped prior to the plaintiff's knee replacement surgery and were not restarted post-operatively. Following the surgery, the plaintiff experienced a debilitating stroke. Sommer's motion for summary judgment was granted after the plaintiff failed to prove that the orthopedic surgeon deviated from the standard of care by proceeding with the knee replacement surgery.

## Trial Victory for Urogynecological Surgeon

**Brian T. Henry** and **Sommer R. Luzynczyk** represented a urogynecological surgeon at trial in a lawsuit involving allegations that the defendant failed to identify a perforation to the bowel and negligently performed a TVT sling mesh procedure. The plaintiff underwent robotic sacrocolpopexy to treat her complete vaginal vault and bladder prolapse and TVT sling mesh placement to treat her urinary incontinence. At the beginning of the robotic sacrocolpopexy procedure, the defendant encountered dense, extensive adhesions of the small bowel. A general surgeon was consulted and lysed the adhesions to provide exposure to the low pelvis where the defendant would be performing the colpopexy. With the small bowel out of the operative field, the defendant performed the colpopexy and closed the ports. Thereafter, the defendant performed the TVT sling procedure. The next evening, the plaintiff developed symptoms concerning for an abdominal process and was taken to surgery emergently where a small perforation of the small bowel was found and repaired. The plaintiff went on to develop septicemia and necrotizing fasciitis in the pubic area and her thigh which required multiple surgical debridements and an abdominal wall reconstruction.

The plaintiff claimed that the small bowel perforation occurred during the sacrocolpopexy or as a result of the TVT needle penetrating the peritoneum and small bowel during placement of the TVT sling. The plaintiff argued that the defendant was negligent by failing to perform a visual re-inspection of the small bowel prior to closing the ports after the colpopexy and was negligent by failing to recognize a small bowel perforation. In the alternative, the plaintiff contended that the negligently inserted the TVT needle when placing the TVT sling causing the small bowel perforation. The defendant testified that a visual inspection was performed when the abdomen was irrigated and suctioned prior to closure of the colpopexy and there was no evidence of a bowel injury. The defense further argued that the perforation could not have occurred during the TVT sling mesh placement because no hole was found in the peritoneum, no mesh was found in the small bowel, and only one, small hole in the small bowel was found at the time of surgery the following evening.

## Related News

- Sommer Luzynczyk and Kayla Condeni win dismissal with prejudice

- Sommer Luzynczyk will serve as speaker at the IDC's 2021 A to Z Litigation Academy
- Pretzel & Stouffer partner, Sommer Luzynczyk, was appointed to the Illinois Supreme Court Rules Committee
- Luzynczyk, Henry, and Eckler speak at Trial Academy
- Henry and Luzynczyk Serve as Faculty Members for 2019 IDC Deposition Academy

## **Related Results**

- Sommer Luzynczyk and Kayla Condeni win dismissal with prejudice
- Henry and Luzynczyk Successfully Defend General Surgeon
- Pretzel & Stouffer Attorneys Obtain Victory for Resident Physician in MSRA Case
- Pretzel & Stouffer Attorneys Obtain Not Guilty Verdict for Orthopedic Surgeon
- Defense Verdict for Orthopedic Surgeon's Ankle Fracture Repair