

## **Defense Verdict Is A Matter Of Restraint**

Family claimed suicidal teen should have been strapped into ambulance

By THOMAS B. SCHEFFEY

**Francisco Maitan v. Access Ambulance Co. and Stamford Hospital:** After a 15-day trial, a Stamford jury found no liability for the hospital and ambulance company that were involved in Diego Maitan's last moments alive.

The 17-year old Stamford youth began behaving violently at home, frightening his mother and throwing things. His parents called police, and he was taken against his will to Stamford Hospital on the evening of Jan. 27, 2005. Before he left home, he told his mother he was going to kill himself, according to the complaint.

At the hospital, he was diagnosed with conduct disorder, mood disorder, cannabis dependency and depression. He was held overnight, and was aggressive and angry the next day. Psychologist Joseph R. Friere, a hospital employee, told the youth's mother, Maura Maitan, that he would be transported to the adolescent facility at Hall-Brooke Hospital in Westport. According to the complaint, she replied that he might try to kill himself.

Stamford Hospital engaged Access Ambulance to transport Maitan. The hospital's patient transfer check list called for restraints "as needed," the complaint alleged. When introduced to the two women who staffed the ambulance, Maitan was described by hospital personnel as calm, cooperative and "not a problem."

He was secured to the ambulance gurney with three pairs of quick-release seat belts at his legs, waist and chest, and covered by a blanket.

Attorney **Eric J. Stockman**, of New Haven's **Neubert, Pepe & Monteith**, defended Stamford Hospital. In an interview, he explained that the hospital made a determination through the staff psychiatrist that the teenager did not need to be restrained at the wrists and the ankles, which would have immobilized him on the cot.

"Patients have liberty rights," and it's an often-difficult balancing test to use restraints only when necessary, Stockman said. "If the patient is not acutely aggressive, he would not be [fully] restrained," Stockman said.

Maitan's estate was represented by attorneys **James R. Fogarty** and **Lawrence Reilly**, of **Fogarty Cohen Selby & Nemiroff** in Greenwich. The plaintiffs alleged that the hospital should have evaluated Maitan's condition more carefully and ordered restraints. They also asserted the ambulance personnel were negligent in not adequately restraining and controlling the youth. The rear door of the ambulance should have been locked, the Maitan estate alleged.

According to the ambulance company, it had no cause to use wrist and ankle restraints because Maitan exhibited no violent activity that would justify such measures. The ambulance door, per safety protocols, must be easy to unlock, defense lawyers said.

"There was a bit of a dispute between the ambulance company and my client [Stamford Hospital], because we claimed [ambulance workers] were told he was suicidal, and they claimed they were not told," said Stockman. However, he explained: "We are in agreement that it would not have mattered whether we told them he was suicidal or not, because if he's not acting out, he does not get restrained."

Because the ambulance company has its own safety protocols, a request from the hospital cannot always be followed, he said.

About 3:30 in the afternoon, during Friday rush-hour traffic between Stamford and Westport on I-95, Diego Maitan unbuckled the seat belts and leaped from the rear of the ambulance. His head struck the pavement and he was almost immediately unconscious. He was pronounced dead at Norwalk Hospital minutes later, Stockman said.

After 15 days of jury selection and 15 days of trial, Stockman won a defense verdict for Stamford Hospital. Access Ambulance, represented by attorney **Jeffrey Blueweiss** of **Bai, Pollack, Blueweiss & Mulcahey** in Stratford, also won a defense verdict for his clients. Fogarty and Reilly have moved to set aside the verdict. Neither could be reached for comment at press time. •