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Rosemary Schnall and Edward Koch recently won a case before the Pennsylvania Supreme Court involving informed consent for surgery. In Cooper v. Lankenau Hospital, Plaintiffs alleged that various doctors and the hospital were negligent in performing an emergency Cesarean section and that the on-duty obstetrical resident was liable for allegedly failing to obtain the Plaintiff-mother’s informed consent prior to surgery.

Following a hotly contested trial, in which the obstetrical resident was defended by now retired partner Charles Roessing and Rosemary Schnall, the jury found that all healthcare providers were not negligent and that the obstetrical resident was not liable for informed consent.

In the appeal before the Pennsylvania Supreme Court, Plaintiffs challenged only the trial court’s jury charge, which Plaintiffs believed improperly suggested that the Plaintiffs had to prove that the obstetrical resident intended to harm the mother. The Supreme Court held that that a plaintiff in a medical battery/lack-of-consent case need not prove that the defendant surgeon performed the unauthorized operation with the intent to harm the patient. Rather, by proving that the surgery or “touching” was intentional and not consented to, a patient establishes that it was “offensive” sufficient to render the unauthorized surgery a battery. Since those concepts were accurately recited in the entire charge, the Court upheld the jury’s finding in favor of the defense.

Appellate Practice Group Chair Edward Koch argued the case before the Pennsylvania Supreme Court.