



AMBULANCE CONFUSION COSTS BRISTOL \$1.75M

Asthmatic woman's death leads to mediated settlement

By **THOMAS B. SCHEFFEY**

L*ewis McQuarrie et al. v. Town of Bristol:* The family of a Bristol woman who died of an asthma attack after police confusion delayed the arrival of an ambulance has received \$1.75 million in a settlement.

On the morning of March 28, 2002, Bristol homemaker Kathleen McQuarrie-Doucette, 29, suffered an asthma attack at home and called 911. She had a long history of respiratory ailments, and controlled her condition with an inhaler.

Police officer John Kiszka responded to the call. In the meantime, a Bristol police dispatcher also called Champion Ambulance, which served several towns in the area. By protocol, Champion dispatched a Bristol EMS ambulance to the scene. The first Bristol ambulance to get the call at 10:16 a.m. couldn't respond, and the call was given to Bristol ambulance No. 174 a minute later.

During the delay, Kathleen McQuarrie-Doucette became agitated and told Officer Kiszka she was going to die. Meanwhile, the ambulance was approaching, but Kiszka did not know where it was. He called his police dispatcher, but did not call Champion or the ambulance, according to court documents. The Bristol police dispatcher said they "were backed up on ambulance calls."

Kiszka, not knowing when an ambulance would arrive, asked his superior for permission to drive the victim to the hospital in his cruiser. He didn't ask the police dispatcher to find where the ambulance was, or radio it directly. At its closest, the ambulance was 15 seconds away from the woman's home, but when the ambulance crew learned the officer had permission to take the woman to the hospital, they turned away at 10:22.

The woman walked down the driveway

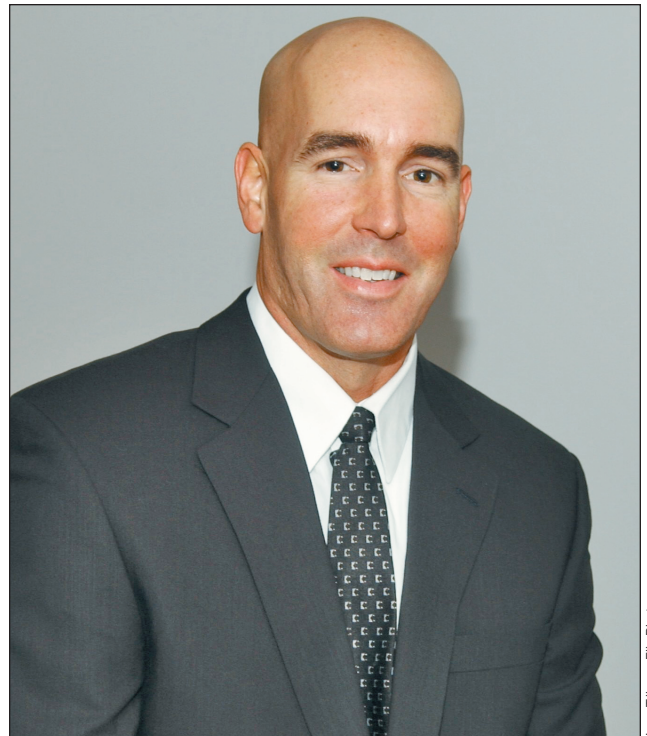
to the cruiser, placed her 2-year old son in the back seat, and then collapsed, half in and half out of the police car. At 10:25, Officer Kiszka called in a "code" reporting that she was not breathing. He began attempting to administer oxygen. Meanwhile, police dispatchers re-summoned the ambulance, which arrived at 10:28. By now, McQuarrie-Doucette was blue from lack of oxygen, according to deposition testimony.

She was treated by the emergency medical technicians at the scene, and transported to the hospital, arriving at 10:37. She never regained consciousness, and died four days later.

The woman's estate sued Bristol, the Bristol police, Kiszka and three other officers, and Bristol Hospital. The plaintiffs were represented by **Michael D'Amico**, of Watertown's **D'Amico, Griffin & Pettinicci**. Bristol's insurer was represented by **Claudia A. Baio** of Rocky Hill, and the police department and officers were represented by **Christine Nietzel**, of **Ryan Ryan Deluca** of Stamford.

Kiszka claimed immunity under the state's Good Samaritan statute, but D'Amico countered that this defense was limited to "hands-on" first aid efforts. D'Amico argued that failure to ascertain the location of the ambulance was ordinary negligence.

The defendants also claimed they were protected by municipal immunity, which



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Plaintiff's attorney Michael D'Amico requested damages for a child's loss of consortium of a parent, a claim that has not yet been recognized in Connecticut courts.

generally guards public employees from lawsuits related to decisions they make in the course of their official duties. But the doctrine does not cover "ministerial," or non-discretionary acts, and D'Amico said a police officer ascertaining the location of an ambulance was such an act. He also said the immunity doctrine does not apply when public employees are dealing with an identifiable person subject to imminent harm.

D'Amico sought damages for loss of the husband's consortium and the son's emotional distress for being a bystander when his mother died. "Another interesting legal

issue,” said D’Amico in an interview, “was a child’s right to bring a claim due to a loss of parental consortium.”

That claim, for the loss of the parent’s affection, presence and company, was rejected in New Britain Superior Court on

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grounds that it has yet to be recognized in Connecticut.

“In the event that this claim was not resolved, it was my intent to bring this up to the Connecticut Supreme Court to reconsider parental consortium,” D’Amico said. “I don’t want to be presumptuous, but I was hopeful that if it went to the Supreme Court, we might be able to get them to change the

state of the law. In the absence of a settlement would have been appealed.”

He said he strongly believes such damages are warranted. The defense lawyers argued with equal firmness that they are not. Nietzel, the Ryan, Ryan lawyer, said that the loss of parental consortium claim had less impact on the value of the case than the son’s claim for bystander emotional distress,

a doctrine which Connecticut has actually adopted, in the 1996 landmark case of *Clohesy v. Batchelor*.

The fact that the bystander claim had been recognized did give the plaintiff more leverage in the negotiations, agreed D’Amico.

From a factual perspective, he said, the delay in the recall of the ambulance ap-

peared to be approximately six minutes. “Unfortunately, those were the critical six minutes that meant the difference between life and death. How a jury would feel, we’ll never know.”

Even as the litigation was pending, the parties attempted settlement efforts. It was **Joseph Mengacci**, of Waterbury, a former Superior Court judge, who eventually helped broker a settlement. “He was terrific,” Nietzel said, “He was excellent at making sure both sides focused on the actual strengths and weaknesses of their cases.”

There were three mediation sessions over a course of two years, and the settlement of the case for \$1.75 million against the city and police defendants was accomplished before the court had to rule on the motions for summary judgment.

Another settlement, involving Bristol Hospital and Bristol EMS, is subject to a confidentiality agreement. ■