

## Missouri Lawyers 2018 AWARDS

## V&S AWARD HONOREE

### TOP DEFENSE WINS IN 2017

Rank	Case Number	V/S Type	Total Value	V/S Date	Type of Action	Court	Caption	Prevailing Attorneys
6	10SD-CC00097	DV	\$3,000,000	4/6/2017	Wrongful Death	Stoddard County	Margie Gordon on behalf of the Estate of Dennis Keith Gordon v. Raymond Ketting, M.D.	Kim R. Luther and Andrew M. Luther of Luther & Associates, St. Louis

### DEFENSE VERDICT

# Jury sides with doctor in malpractice case

BY DAVID BAUGHER

Special to Missouri Lawyers Media

A Stoddard County jury has decided that an emergency room doctor who did not order a CT scan was not liable in the death of a man who perished from abdominal issues.

"We said it wasn't indicated under the circumstances," said attorney Andrew M. Luther.

Luther assisted in representing defendant Dr. Raymond Ketting in the suit concerning decedent Dennis Gordon.

Gordon was undergoing chemotherapy for testicular cancer in Texas in 2008 when he and his wife decided to drive back to Missouri to see their young son. Gordon began to experience worsening abdominal pain during the trip and the next morning after arriving in Missouri.

The issue prompted a visit to the emergency room at Poplar Bluff Regional Medical Center where Ketting ordered lab work and a screening test as well as pain medication, which Luther said appeared to improve Gordon's condition. He was discharged to a floor of the hospital.

Gordon's vital signs deteriorated the following day and a CT scan was interpreted as being consistent with a bowel obstruction. He was prepared for surgery but died before it could take place. The plaintiff contended the scan should have happened earlier.

"The main issue in the case from the plaintiff's perspective was he believed that Dr. Ketting, who we represented, should have ordered a CT in the emergency department," Luther said.

But Luther countered that the situation didn't appear to warrant a CT scan. He also argued that Gordon may not have had a bowel obstruction. The defense contended the problem may have been a superior mesenteric artery (SMA) occlusion, a rarer but much more dangerous condition that might have shut off blood flow to a wide area of the bowel.

The defense's expert radiologist said the CT was consistent with an SMA and was not a bowel obstruction.

"It is one of those things that's so rare, that it is one of those things reported in medical journals," Luther said.

He said that this was also more consistent with the decedent's rapid deterioration, which is uncharacteristic of a bowel obstruction. Bowel obstructions are less hazardous and may only require monitoring.

"[A bowel obstruction] is certainly something that doesn't kill somebody so quickly," he said. "Here's a guy who has abdominal pain which is relatively new and within two days, he's dead."

The defense expert also testified that there may be a link between SMAs and cancer patients.

An autopsy was not performed.

Luther said the doctor acted properly and a CT didn't appear to be needed for someone whose vitals were initially stable and who appeared to be improving.

"In the emergency department, you don't order CTs for everyone and that was one of our main points," he said.

This was the third time the case had been tried. The first was a hung jury and the second was a mistrial based upon certain juror statements, Luther said. The third trial resulted in a unanimous verdict. The plaintiff settled with the hospital confidentially before the first trial.

Luther assisted lead defense counsel Kim Luther.

J. Michael Ponder of Cook, Barkett, Ponder & Wolz, who represented the plaintiff, did not return a request for comment. mo

#### WRONGFUL DEATH

■ **Venue:** Stoddard County Circuit Court

■ **Case Number/Date:** 10SD-CC00097/April 6, 2017

■ **Judge:** Stephen Mitchell

■ **Caption:** Margie Gordon on behalf of the Estate of Dennis Keith Gordon v. Raymond Ketting, M.D.

■ **Plaintiff's Attorneys:** J. Michael Ponder of Cook, Barkett, Ponder & Wolz, Cape Girardeau

■ **Defendant's Attorneys:** Kim R. Luther and Andrew M. Luther, Luther & Associates, St. Louis

■ **Plaintiff's Experts:** Michael Cox, St. Louis, (critical care); David Tan, St. Louis, (emergency medicine); Howard Ozer, Chicago, (oncology)

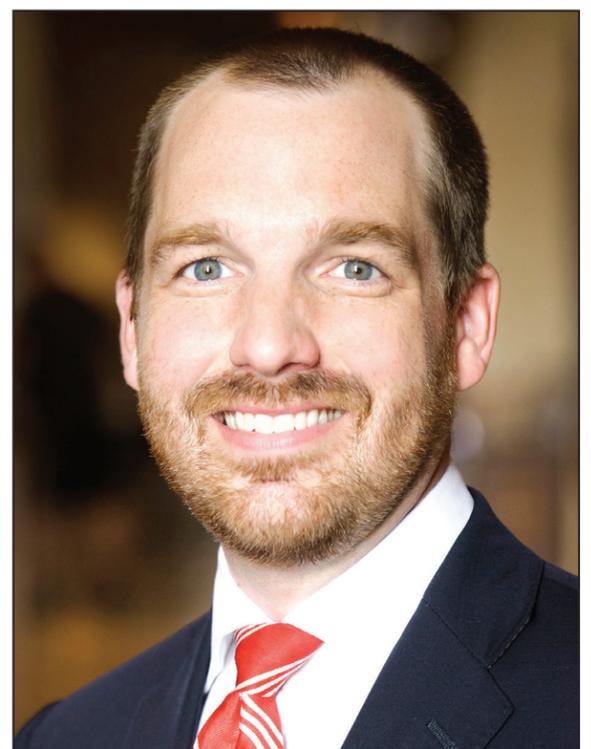
■ **Defendant's Experts:** Robert Mecker, Washington, (emergency medicine); Christine Menias, Scottsdale, Arizona, (radiologist); Gregory Sayuk, St. Louis, (gastroenterologist)

■ **Last Pretrial Demand:** \$1 million

■ **Last Pretrial Offer:** \$0



Kim R. Luther



Andrew M. Luther