

# Leaders in the Law

## 2024

TOP VERDICTS 2023

## #4 – \$20 MILLION

*Estate of Joseph Brown v. Kenyon, M.D., et al.*

**Robert M. Higgins, Lubin & Meyer, Boston**

In Essex Superior Court jury awarded \$20 million to the estate of Joseph Brown, a 43-year-old disabled man who died from an undiagnosed and untreated aortic aneurysm and dissection, in April 2023.

Brown arrived at Salem Hospital on the morning of Jan. 13, 2018, suffering from chest and back pain, as well as shortness of breath. He was seen by an emergency room physician who ordered bloodwork, which showed that Brown had an elevated white blood count. The doctor assumed that he had an infection and recommended that he be admitted.

A hospitalist examined Brown upon his admission and agreed that his symptoms were caused by an infection. He sent Brown to the medical floor, where he stayed overnight.

The next morning, his chest and back pain worsened, and he became short of breath again. The covering doctor that morning ordered an immediate CT scan, which showed a massive aneurysm at the beginning of his aorta and a dissection extending through most of his aorta.



**ROBERT M. HIGGINS**

As the necessary surgery could not be performed at Salem Hospital, Brown was set up to be flown emergently to Boston. Before he was able to be transported, however, his aorta ruptured, his heart stopped and he died on his way to the helicopter.

Over the course of the eight-day trial, Lubin & Meyer's Robert M. Higgins of Boston presented experts in emergency medicine and cardiothoracic surgery, with both opining that the defendants were negligent in failing to order a CT scan on Jan. 13, 2018 and that surgery any time before Brown's heart stopped would have saved his life.

Testimony at trial also established that Brown's complaints were consistent with aortic aneurysm/dissection and that a CT scan was the definitive test to rule out this cause.

"The defense put on a very strong case," Higgins notes, with testimony from the defendants that they knew an aneurysm/dissection could be the source of Brown's problems, but they thought he was too young and did not have risk factors for that to be the cause.

Demonstrative aids proved to be key to achieving the verdict. In 3D form, the CT scan used to diagnose Brown's dissection allowed jurors to see where the aneurysm was bulging out of the back of the aorta.

"You can tell a jury about an aortic aneurysm or dissection, but it is far more powerful to actually show them," he says. "We also had our cardiothoracic surgeon use the image to explain how it could be fixed."

After deliberating roughly three hours, the jury awarded Brown's two daughters \$20 million; with interest, the verdict totaled \$28.8 million.