

Hadiaris & Lavoie Successfully Defend Maine Surgeon in Jury Trial

NHD trial attorneys [JD Hadiaris](#) and [Mark Lavoie](#) recently secured a defense verdict for a Maine surgeon in a medical malpractice jury trial at the York County Superior Court.

At trial, the Plaintiff claimed that the surgeon failed to obtain valid informed consent for a cervical lymph node excisional biopsy, which had been recommended in conjunction with a thyroid wedge biopsy to test for possible malignancy. The Plaintiff alleged that an injury to the recurrent laryngeal nerve occurred during the lymph node excisional biopsy.

The Plaintiff and his expert alleged that the surgeon was required to offer the Plaintiff the option of a wedge biopsy *only*, without the lymph node excisional biopsy -- despite the fact there was concern for possible malignancy due to, *inter alia*, abnormal appearance of the lymph nodes on ultrasound, lymphadenopathy, and prior needle biopsy testing that failed to rule out cancer. Furthermore, after the needle biopsies were taken, the surgeon spoke with pathology, and lymph node excision was recommended to perform further testing.

At trial, the defense team presented a nationally recognized expert in endocrine surgery who testified that the lymph node excisional biopsy was a necessary part of the procedure and was *required* by standard of care. The expert also testified that the standard of care did not require the surgeon to offer unreasonable treatment options -- such as a wedge biopsy only, without the lymph node excisional biopsy -- to the patient. On the issue of causation, the expert explained that it was completely speculative to suggest that the nerve injury -- a known risk of the procedure, and not evidence of negligence on the part of the defendant surgeon -- occurred during the lymph node excisional biopsy portion of the operation, as opposed to the wedge biopsy or during intubation.

In closing, the defense argued that the Plaintiff failed to establish any of the necessary elements of his claim for lack of informed consent under Maine law. The jury began deliberations on the afternoon of May 6, 2024, and returned a defense verdict on the same day.

Following trial, the Plaintiff moved for a new trial, arguing that the Court committed legal error in its jury instructions. The defense team at NHD opposed the Plaintiff's Motion for New Trial, and the Court denied the Plaintiff's Motion in summary fashion on July 3, 2024.

[JD Hadiaris](#) and [Mark Lavoie](#) are partners in Norman Hanson DeTroy's [medical malpractice and professional liability department](#). They regularly defend providers and hospitals in medical malpractice claims in Maine and New Hampshire.