



Patient-7

Patient had surgery for a rotator cuff injury. He was left in a vegetative state due to a defective anesthesia machine – which was not saved as evidence. Jury verdict of \$4.8 million against Sunrise Hospital.

The Nevada Supreme Court upheld a **\$4.8 million medical malpractice judgment against Sunrise Hospital** in Las Vegas in the case of a man who was left in a vegetative state after surgery for a rotator cuff injury.

The court ruled that Otho Lee Banks, as guardian for James L. Banks Jr. was entitled to the money.

In August 1995, when he was 51, James Banks was admitted to Sunrise Hospital for rotator cuff surgery. During the surgery, James went into cardiac arrest, and he failed to regain consciousness.

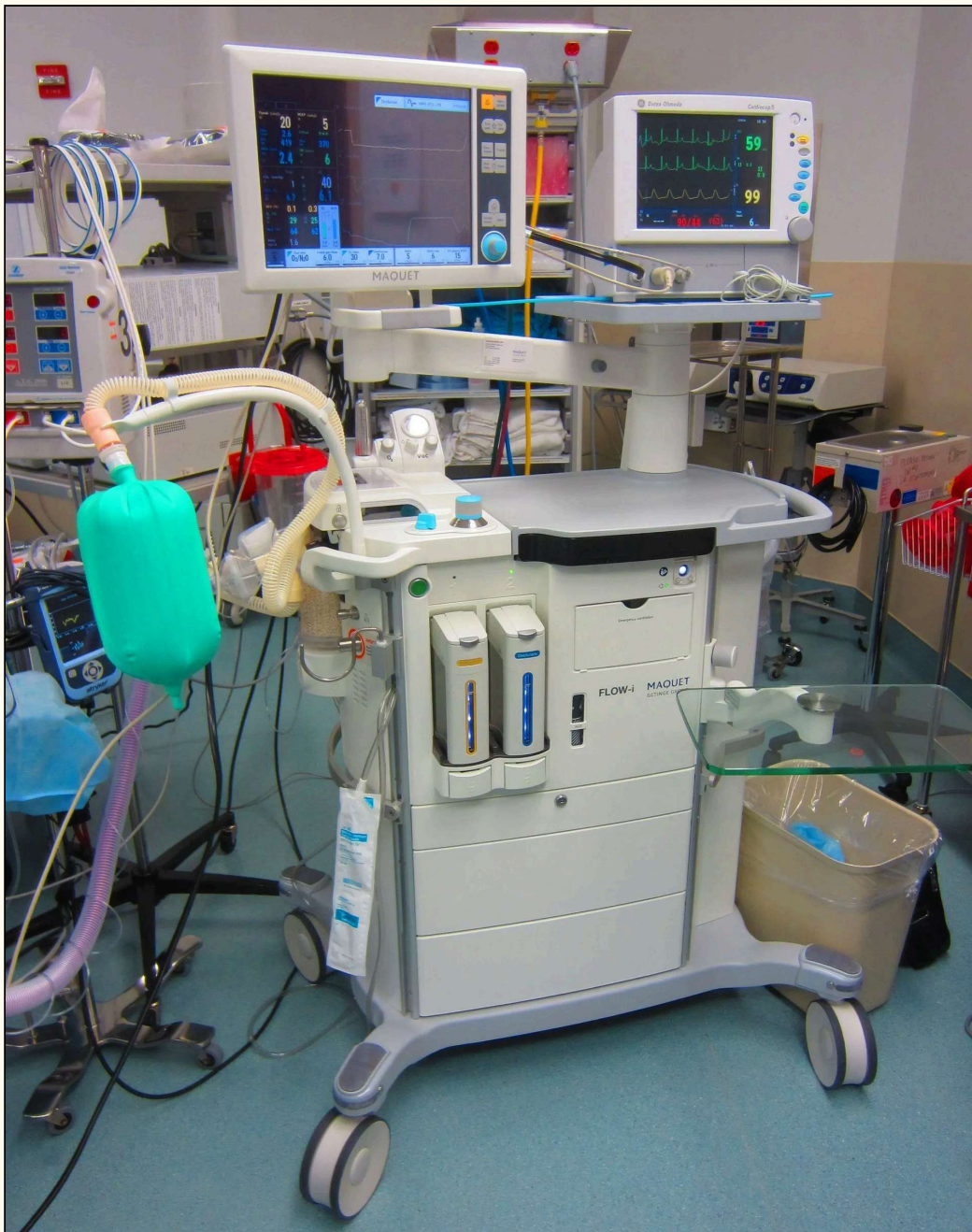
The hospital used an anesthesia machine on Banks that Banks' lawyer maintained was defective and led to Banks' brain damage.

Before the surgery, Sunrise Hospital had an agreement to sell that machine and others. The equipment was sold several months after Banks' operation. The hospital never recorded the serial numbers or documented which machine was used in Banks' surgery.

During the trial before District Judge Sally Loehrer, a jury instruction was given that Sunrise had failed in its duty to preserve the evidence for inspection. The instruction told the jury, "You may infer that had the equipment been preserved and tested that it would have been found to be not operating properly."

The state's high court, in the majority opinion Friday written by Justice Deborah Agosti, said Sunrise "had a duty to preserve information relating to the attending physicians and the equipment."

"In fact, if the equipment had been functioning properly, it is reasonable under any circumstance to infer that Sunrise would have wanted to preserve it in order to protect itself from a false claim of negligence," Agosti wrote.



A patient was left in a vegetative state due to a defective anesthesia machine at Sunrise Hospital.

The defective machine should have been saved as evidence, but it was sold by Sunrise Hospital before the case went to court.

Just say NO to Sunrise Hospital

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