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LIABILITY - NEW YORK

Shipley v. City of New York

Court of Appeals of New York - June 10, 2015 - N.E.3d - 2015 N.Y. Slip Op. 04791

Decedent's next of kin brought action against city and city's office of medical examiner, asserting that medical examiner violated common-law right of sepulcher by failing to notify next of kin, before decedent's burial, that decedent's brain had been retained for further examination and testing as part of autopsy. At conclusion of defendants' case, the Supreme Court, Richmond County, granted directed verdict to next of kin on issue of liability, and later entered judgment upon jury's award of $1 million in total damages to two of the next of kin, and denied defendants' motion to set aside jury's verdict as excessive. Defendants appealed. The Supreme Court, Appellate Division, affirmed as modified, determining that jury's award of $1 million for past pain and suffering was excessive, and remitting. Leave to appeal was granted to defendants.

The Court of Appeals held that medical examiner was not obligated, by statute or common law, to notify decedent's next of kin that one or more organs and/or tissues had been retained for further examination and testing as part of authorized autopsy.

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