

# 1<sup>st</sup> Circuit

CASE	Y	RESULT	Plaintiff	Defendant	FACTS	HOLDING	REASONING
<i>Martinez v. Hospital Menonita de Cayey</i> , 32 Fed.App.3d 591, (Puerto Rico)	2002	? prevails.	Emerg Rm Patient	Hospital	Negligence/malpractice case	EMTALA claim dismissed.	The Court of Appeals held that EMTALA protects against differential treatment, not negligence
<i>Correa Ortiz v. Mercado Sile</i> , 2002 WL 731762 D.Puerto Rico	2002	? prevails		Dr and Hospital	In the complaint, plaintiffs allege that co-defendant Hospital San Cristóbal violated EMTALA by failing to provide the appropriate medical screening and the required stabilization.	EMTALA does not provide an individual cause of action against physicians; thus, claim against Dr must be dismissed. Motion to dismiss the EMTALA claim granted.	?’s cla ims against co-defendant Hospital are essentially claims of faulty screening and/or negligent treatment.
<i>Ortiz-Lopez v. Sociedad Espanola de Auxilio Mutuo</i> , 248 F.3d 29 (Puerto Rico)	2001	? prevails	Decedent’s family	Hospital	Decedent died at ER of hospital as a result of an allegedly self-inflicted overdose of painkillers.	EMTALA claim dismissed for failure to state a claim because plaintiff’s expert witness was disqualified from testifying as a sanction under Fed. R. Civ. P. 37(c)(1).	Plaintiffs' expert witness disqualified because plaintiffs were not substantially justified in failing to disclose information under Fed. R. Civ. P. 26(a).
<i>Alicea-Martinez v. Hospital Menonita de Cayey</i> , 2001 WL 1636798 D.Puerto Rico	2001	? prevails	Misdiagnosed patient	Hospital	Misdiagnosed when swallowed a turkey bone and perforated esophagus.	This is essentially a med malpractice case, and not an EMTALA case.	Absent evidence that defendants screened Alicea differently than they did other patients exhibiting similar symptoms, plaintiffs cannot prevail on their EMTALA claim.
<i>Martinez-Rosado v. Instituto Medico Del Norte</i> , 145 F.Supp.2d 164 D.Puerto Rico	2001	? prevails	Family members of deceased patient	Hospital and Drs	Automobile accident. Taken to the emergency room, transfered her to another hospital. Arrived 30 minutes after and died 5 hours later.	Hospital’s motion to dismiss denied.	
<i>Reynolds v. MaineGeneral Health</i> , 218 F.3d 78 (Me.)	2000	? prevails.	Decedent’s spouse and minor child	Hospital	Decedent was treated in ER for leg and foot fractures, had a family history of hypercoagulability, was released several days later after 2 surgeries, and died from pulmonary embolism caused by deep veinous thrombosis (DVT).	EMTALA's purpose was satisfied by the patient's receiving treatment in the hospital. Any failures of diagnosis or treatment remediable under state medical malpractice law.	As no evidence showed that the pt was symptomatic for DVT or that the hospital was aware of his having DVT, the hospital was not required to screen for it, nor to stabilize the condition before discharge.
<i>Lopez-Soto v. Hawayek</i> , 175 F.3d 170 (Puerto Rico)	1999	? prevails (remanded)	Parents of deceased child	Hospital	EMTALA claim hinges on the Hospital's alleged failure to comply with the statute's stabilization and transfer provisions.	The absence of emergency room presentment does not preclude prosecution of this suit under 42 U.S.C. § 1395dd(b).	Because subsections (a) and (b) of EMTALA operate disjunctively rather than conjunctively, the infant decedent's arrival in the operating room and the Hospital's prompt detection of an emergency medical condition, if proven, will suffice to engage the gears of EMTALA's stabilization and

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						transfer obligations.	
<i>Estate of Prevett v. Cohen</i> , 129 F.3d 1252 (Mass.)	1997	? prevailed	**	**	**	The amended complaint failed to state an EMTALA claim upon which relief could be granted.	**
<i>Perez-Bourdon v. Com. of Puerto Rico</i> , 951 F.Supp. 22 D.Puerto Rico	1997	? state prevails	No specifics.	State and insurers	Not specified.	11 <sup>th</sup> A's state immunity from federal suit not abrogated by EMTALA & state did not waive immunity	Need unequivocal statutory language in order to abrogate
<i>Hart v. Mazur</i> , 903 F.Supp. 277 D.R.I.	1995	? prevails	Admx of deced's estate for his 3 minor children. Decd was a male comm fisherman.	Hospital and ER personnel	Decedent presented in ER with injured hand. Released. Returned to ER 3 days later, admitted, lapsed into coma, and died.	Not necessary to allege economic motive under EMTALA; state malpractice claims not actionable under EMTALA; district court may exercise sj over malpractice claims	EMTALA does not cover misdiagnosis or faulty screening only failure to appropriately screen and/or stabilize.
<i>Correa v. Hospital San Francisco</i> , 69 F.3d 1184, 33 Fed.R.Serv.3d 884 (Puerto Rico)	1995	? prevails	Decedent's survivors. Decedent was a 65 year old widow.	Hospital.	Decedent waited 2 hrs in ER after presenting with chest pains, then referred to another facility where she died	Need not show patient suffered from emc on arrival in ER under EMTALA; findings that ? governed by EMTALA and failed to provide adequate screening supported by evidence; ?'s contention that survivors could not recover for their own pain and suffering waived; \$700,000 damages awarded not excessive	Appropriate screening requires that there be some screening procedure and that it be administered even-handedly; faulty screening not violation of EMTALA; no motive requirement under EMTALA; all patients covered
<i>Carleton v. Kinsella</i>	1994	? prevails.	No specifics. Patient was male.	Hospital.	Not specified.	Genuine issue of fact concerning when claim accrued for purposes of applicable SOL	EMTALA has a 2 year SOL; can state apply "discovery rule" to federal statute?
<i>Nichols v. Estabrook</i>	1989	? prevails.	Parents of decedent male infant.	Physician.	? decided not to treat decedent baby but send to another hospital where the pediatrician was	Liability could not be based on EMTALA.	EMTALA's purposes to prevent "patient dumping"