

## **Kidney Misdirected: Appeals Court Says Recipient May Have The Right To Sue.**

A recent ruling of the US Court of Appeals for the Second Circuit sharply criticized a ruling of the US District Court for the Eastern District of New York which we reported in May, 2005.

The District Court had ruled that a person claiming to be the intended beneficiary of a deceased patient's gift of a kidney had no right to sue over the organ being harvested and given to another patient.

See *Organ Donation: Court Says Beneficiary Cannot Sue For Kidney Given To Another*, Legal Eagle Eye Newsletter for the Nursing Profession (13)5, p.8 (May, 2005).

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***The Uniform Anatomical Gift Act grants immunity from civil lawsuits to healthcare providers who harvest and distribute organs in good faith.***

***Implicitly, such lawsuits must be permitted if and when good faith is lacking.***

UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT  
February 23, 2006

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The US Court of Appeals sent the case to the New York State Supreme Court for a ruling whether or not a 95-year-old New York case is still a valid precedent in light of newer cases in other states setting a trend toward allowing lawsuits over misdirected human organs, and told the US District Court to re-consider the case under the Uniform Anatomical Gift Act. *Colavito v. New York Organ Donor Network*, 438 F. 3d 214 (2nd Cir., February 23, 2006).