

LS & SETTLEMENTS

Medical Malpractice

Wrongful Death — Failure To Diagnose, Treat Lung Cancer — Radiologist Missed Nodule On X-Ray

Brief Statement of Claim: Delayed diagnosis and treatment of lung cancer

Principal Injuries (in order of severity): Wrongful death

Special Damages: Nominal

Tried or settled: Confidential

County where tried or settled: Confidential

Case Name and number: *Confidential*

Date Concluded: April 2000

Name of Judge: n/a

Amount: Amount

Insurance Carrier: Confidential

Expert Witnesses and areas of expertise: Dr. James Stark, oncologist; Dr. Paul Conkling, oncologist; Dr. Jeffrey Crawford, oncologist; Dr. Phillip Miller, radiologist; Dr. Michael Alexander, radiologist

Attorneys for plaintiffs: Jim Billings and Danny Glover

Other Useful Info: In September of 1995 Plaintiff underwent a routine chest x-ray in preparation for eye surgery. The chest film was read and reported by the Defendant radiologist as being "normal."

In the late summer of 1996 Plaintiff began to experience back and chest pain, and sought treatment from a chiropractor. The chiropractor took chest x-rays, and in November of 1996 reported to the patient that he felt she could possibly have a mass in the left lobe of her lung. Plaintiff then immediately consulted with her local family physician and was referred to a pulmonary specialist for a complete workup.

Subsequent testing revealed the existence of two masses in the upper left lobe of her lung. The cancer had metastasized at that point, and was inoperable. Plaintiff then underwent a regimen of experimental chemotherapy which was painful and debilitating. She died several months later.

A retrospective examination of the chest films that were taken in September of 1995 revealed a small isolated mass measuring approximately 1.5 cm by 3.0 cm. There was no evidence of metastasis on the September 1995 chest film.

Plaintiff contended, and offered evidence from several well qualified experts, that, to a reasonable degree of medical certainty, the lesion in September 1995 had not spread to the lymph nodes or mediastinal area and that there had been no metastasis. Assuming this to be true, then surgical resection of the mass at that time would have given the patient a 60 to 80 percent chance of being cured.

The Defendants' position was that it was highly unlikely that earlier diagnosis and treatment would have altered this patient's clinical course.

Defendants contended that there probably was metastasis even as early as September of 1995, and that there could have been spread of the cancer to the lymph nodes or to the mediastinal area which would not have shown on plain x-ray. Defendants argued that, in retrospect, there were actually two small masses that were discernible on the September 1995 chest film, and that such supported the Defendants' position that earlier diagnosis and treatment would not have altered the outcome.

Defendants further argued that given the size of the cancerous lymph nodes in the fall of 1996, it was highly unlikely that these nodes would have been "cancer free" approximately one year earlier.

According to plaintiff's counsel, the defendant radiologist readily admitted that the lesion was apparent on the 1995 chest films and that he had simply "overlooked it." He was unable to offer any explanation as to why he had "missed" the lesion, according to the plaintiff's attorney. Nevertheless, he refused to admit that he had breached the standard of care in failing to observe and report the lesion, and took the position that small, isolated pulmonary nodules of this size are frequently missed on radiological interpretations, and that to do so was not a violation of the acceptable standard of care.