



THE VERDICT REPORTER

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Cancer Death Leads to \$775K Award *Pathologists Reportedly Misread Biopsy As Benign Hyperplasia*

BY MARGI BANNER

A Worcester County Superior Court awarded a \$775,000 verdict in a case involving the death of a woman from cervical cancer. The verdict was against pathologists who allegedly failed to make a timely diagnosis of the disease.



Maureen Russo presented to her primary care physician for a complete physical exam and was found to have a bleeding cervical mass. She was referred to an OB/GYN, who identified a cervical polyp and performed a biopsy. The next day, defendant attending pathologist

diagnosed the cervical biopsy as microglandular hyperplasia, a benign condition, in conjunction with an infection. The two other defendants, both senior pathologists, were consulted and agreed with the findings of the attending pathologist. The OB/GYN was reportedly assured there was no malignancy.

The OB/GYN notified Russo of the benign findings and prescribed a course of antibiotics. After continued inflammation, the OB/GYN scheduled decedent for excision of the mass. Russo sought a second opinion, and a pelvic examination revealed a very large, vascular, cauliflower-like lesion. A different pathology facility diagnosed adenocarci-

noma. The diagnosis was made three months after the initial biopsy.

The patient underwent a radical hysterectomy, bilateral oophorectomy and lymphadenectomy. The pathology reports indicated poorly differentiated invasive adenocarcinoma of the cervix, which had metastasized. Russo subsequently underwent radiation and chemotherapy, but died in 2006.

Plaintiffs alleged that defendant pathologists failed to make a proper diagnosis of adenocarcinoma, resulting in Russo's death.

Defendants denied liability and asserted that the three-month delay did not cause or contribute to the metastatic spread of the cancer.

INJURIES: Failure to diagnose cervical cancer, resulting in metastasis and death.

VERDICT: \$775,000, plus interest of \$498,112, for a total judgment of \$1,273,412.

For full details, see page 31.

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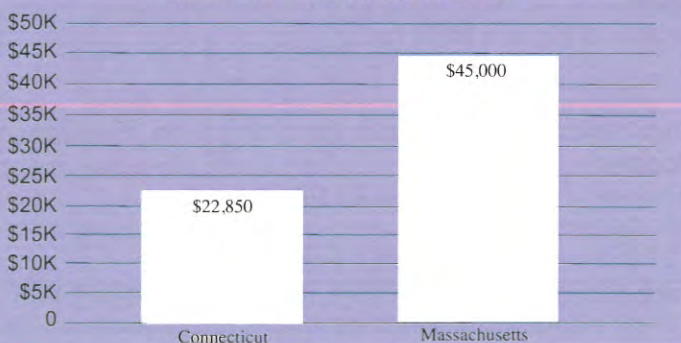
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to prevent him from suffering injuries. Plaintiff argued that any signs posted outside the rail yard were insufficient to warn pedestrians of the dangers of crossing through the rail yard. Plaintiff alleged that defendant's agents acted with reckless disregard of the plaintiff's safety and intentionally failed to act while knowing or having reason to know of rail operations and circumstances which created an unreasonable risk of physical harm to the plaintiff. Plaintiff's mother sought damages for loss of consortium and emotional distress.

Defendant contended that plaintiff was trespassing on its property. Defendant asserted that plaintiff failed to state how the rail yard was dangerous and whether the railroad knew about the dangers. Defendant argued that its awareness that people trespassed in the rail yard did not equate to wanton and willful conduct and that the railroad was merely operating in its daily fashion.

Plaintiff Profile: Plaintiff was a 48-year-old male.

Alleged Injury: Crushed right foot, severing of the left leg and a degloving injury of the left arm, resulting in bilateral leg amputations and a severely deformed left arm.

Case Number: 11-CV-30161

Worcester County, MA

Superior Court — Worcester

Passenger in Parked Vehicle Seeks Damages Following Rear-End Collision

Case Caption:

Jorge Sierra v. Charles Thomas

Verdict: \$22,000

Judge: David Ricciardone

Date of Verdict: 2/2012

Attorneys:

Plaintiff: Jennifer T. Currie, Worcester

Defendant: David L. Joyce, Lowell

Facts: A car parked alongside a roadway was rear-ended by the defendant. A passenger in the parked vehicle suffered an injury

and sought damages the defendant. The defendant disputed the nature and extent of the damages. A Worcester County jury returned a \$22,000 verdict for the plaintiff.

Plaintiff Jorge Sierra was a passenger in a vehicle which was parked alongside a roadway. While parked, the vehicle was struck from behind by a vehicle driven by Defendant Charles Thomas. Defendant did not see the parked vehicle, and admitted liability for causing the accident.

Plaintiff alleged he sustained a serious shoulder injury, which required treatment for a period of time. He sought damages commensurate with his injury. Defendant disputed only the nature and extent of the damages.

Plaintiff Profile: Plaintiff was a male in his 30s who was employed.

Alleged Injury: Soft tissue shoulder injuries, which required emergency treatment, followed by physical therapy. Plaintiff was out of work for awhile and recovered from his injuries after a period of time. He sought medicals, lost wages, and damages for pain and suffering.

Jury Deliberations: 3 hours

Expert(s):

Plaintiff: None

Defendant: None

Case Number: WOCV2009-00873

Editor's Notes: There was no appeal and this case is closed.

Worcester County, MA

Superior Court — Worcester

Pathologists Found Liable for Woman's Death from Cervical Cancer

Case Caption:

Domenic Russo, Executor for the Estate of Maureen Russo, et al. v. Rhonda Yantiss, M.D., Armando Fraire, M.D., Ashraf Khan, M.D., et al.

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Verdict: \$775,000, plus interest of \$498,112, for a total judgment of \$1,273,412.

Judge: Daniel M. Wrenn

Date of Verdict: 3/2012

Attorneys:

Plaintiff: Russell X. Pollock, Boston
Clyde D. Bergstresser, Boston

Defendant: Withheld

Facts: A Worcester County Superior Court awarded a \$775,000 verdict in a case involving the death of a woman from cervical cancer. The verdict was against pathologists who allegedly failed to make a timely diagnosis of the disease.

Plaintiffs' decedent, Maureen Russo, presented to her primary care physician for a complete physical exam and was found to have a bleeding cervical mass. She was referred to an OB/GYN, who identified a cervical polyp and performed a biopsy. The next day, defendant attending pathologist diagnosed the cervical biopsy as microglandular hyperplasia, a benign condition, in conjunction with an infection. The OB/GYN was reportedly assured there was no malignancy. In addition, the two other defendants, both senior pathologists, were consulted and agreed with the findings of the attending pathologist.

The OB/GYN notified Russo of the benign findings and prescribed a course of antibiotics to treat the infection. After several months of continued inflammation, the OB/GYN scheduled decedent for excision of the mass. Russo sought a second opinion from another OB/GYN. Pelvic examination revealed a very large, vascular, cauliflower-like lesion. A different pathology facility diagnosed adenocarcinoma. The diagnosis was made three months after the initial biopsy.

Within weeks, Russo underwent a radical hysterectomy, bilateral oophorectomy and lymphadenectomy. Pathology reported a 5.5 cm, poorly differentiated invasive adenocarcinoma of the cervix, with two paracervical lymph nodes and two obturator lymph nodes, positive for adenocarcinoma, as well as extra-nodal spread and invasion of the pelvic wall. Russo subsequently underwent radiation, followed by chemotherapy, completing all treatment in December 2003. In the spring of 2006, Russo presented to her doctor with complaints of groin and back pain. Radiology revealed multiple metastatic lesions of the spine, along with lesions in the spleen and liver. Throughout the summer and early fall of 2006, she underwent unsuccessful chemotherapy and palliative radiation treatment. Treatment was discontinued and Russo died soon thereafter.

Plaintiffs alleged that defendant pathologists violated the standard of care when they diagnosed microglandular hyperplasia, rather

than adenocarcinoma. Plaintiffs argued that the delay in diagnosis had a significant impact on Russo's life expectancy.

Defendants contended that the initial biopsy was correctly read and represented a concurrent benign condition. Further, defendants asserted that the three-month delay did not cause or contribute to the metastatic spread of Russo's disease and death three years later. Defendants maintained that the very small initial biopsy did not contain any of the cancer that admittedly must have been present deeper in the polyp. Defendants' oncology expert testified that the three-month delay did not cause or hasten Russo's death, given the extensiveness of the cancer at diagnosis, the aggressiveness of the tumor and equivocal evidence of growth during the period of delay.

Plaintiff Profile: Plaintiffs' decedent was a 36-year-old married female.

Alleged Injury: Failure to timely diagnose cervical cancer, resulting in death. Decedent was survived by her spouse and two minor children.

Jury Deliberations: 3.5 days

Case Number: WOCV2006-01491

Providence/Bristol Counties, RI

Superior Court — Providence

Motorist and Pedestrian Agree to Pretrial Settlement

Case Caption:

Anonymous Female Pedestrian v. Unknown Motorist

Settlement: \$170,000

Judge: Unknown

Settlement Date: 3/20/2012

Attorneys:

Plaintiff: Brian R. Cunha, Fall River

Defendant: Withheld

Facts: A woman was struck by a motor vehicle as she attempted to cross a busy street. The motorist who struck her denied liability, but agreed to a \$170,000 settlement.