
Medical Malpractice Verdict: Failure to Diagnose Cancer Leads to \$3.38 Million Award



In the USA, a Wicomico County jury returned a \$3.38 million verdict in a medical malpractice lawsuit, marking the largest verdict of its kind in the county's history. The jury found Peninsula Radiology Associates, PA medically negligent in their failure to properly interpret and identify abnormalities on Mary Raver's CT scan, causing her illness to progress from curable stage I to terminal stage IV cancer. The jury, comprised of six individuals, unanimously ruled in favor of the plaintiff after careful consideration of the evidence presented.

A cancer misdiagnosis case

According to the complaint, the plaintiff initially noticed a small lump in front of her right ear in March 2021. After consulting medical professionals and undergoing a contrast-enhanced soft tissue neck CT at Peninsula, the radiologist classified the scan's results as a "normal variant" and did not recommend further testing or treatment. However, by July 2021, the plaintiff noticed that the mass had grown larger, prompting her to seek further medical attention. Subsequent testing revealed the progression of her cancer, necessitating surgery in January 2022. Over time, the cancer spread and Raver received a terminal diagnosis. Testimony from the lawsuit revealed that she is now receiving care totaling over \$300,000 a year to extend her life another 18 months. The jury found that had she been given the correct diagnosis during the screening, it likely would have saved her life. Experts testified that the cancer finding should not have been missed.

Blind review by two other radiologists confirms cancer diagnosis

During what is termed as a blind review, the prosecution had Raver's cancer diagnosis confirmed by two other radiologists using the same study. In a blind review, the expert in question is not notified if they are being contacted by the legal counsel for the patient or the physician. The two radiologists became expert witnesses for the prosecution to note "a reasonable radiologist viewing this would have spotted the abnormality and ordered the next study before it progressed."

Demonstrating Liability for the Failure to Diagnose Cancer

In Maryland, demonstrating liability for the failure to diagnose cancer typically involves establishing several key elements under state law. First, it must be shown that the defendant, usually a healthcare provider, owed a duty of care to the plaintiff, meaning they were obligated to provide competent medical treatment. Second, it must be demonstrated that the defendant breached this duty by failing to adhere to the applicable standard of care. This breach could involve errors in conducting medical tests, misinterpreting test results, neglecting symptoms, or failing to follow up on concerning findings. Third, it must be established that the breach of duty directly caused harm to the plaintiff. In cases of failure to diagnose cancer, this often entails proving that the delayed diagnosis or misdiagnosis led to cancer progressing to a more advanced stage than it would have with timely and appropriate treatment. Finally, the plaintiff must have suffered damages as a result of the breach of duty and subsequent harm caused by the delayed or missed cancer diagnosis.

During the trial, it was discovered the radiologist could have spent only an estimated five minutes reviewing Raver's images before determining they did not indicate a malignant growth. Hers was among an estimated 110 to 130 studies he examined in the course of a normal day, which led to the shortened review period in Raver's case. This case should act as a reminder of the crucial need to support radiology workflows to ensure the best patient outcomes.

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