



VERDICTSEARCH

NEW YORK

WRONGFUL DEATH

Medical Malpractice — Delayed Diagnosis

Misread Pap Smear Allowed Spread of Undiagnosed Cancer

MIXED VERDICT **\$15,125,000**

CASE Jane Pedone and Vincent Pedone, as Executors of the Estate of Karen Pedone v. Metpath/CCL and Richard Halpert, M.D., No. 2199/96

COURT Nassau Supreme

JUDGE F. Dana Winslow

DATE 1/16/2003

PLAINTIFF ATTORNEY(S) Steven E. Pegalis; Pegalis & Erickson, L.L.C.; Lake Success, NY

FACTS In 1993, plaintiffs' decedent Karen Pedone, 35, a part-time medical biller, presented to Dr. Richard Halpert for an annual check-up. Halpert performed a Pap smear and sent the smear to Metpath/CCL for analysis. Metpath/CCL reported that Pedone did not have cancer.

In 1994, Pedone underwent another Pap smear. This time, Metpath/CCL detected cancer. It was determined that the cancer had started in Pedone's cervix and spread to other parts of her body.

In 1996, Pedone sued Halpert and Metpath/CCL, which was a predecessor company of Quest Diagnostics Inc. Pedone claimed that the Pap smear was misread, thus facilitating the spread of the undiagnosed cervical cancer. She also claimed that Halpert failed to notify Metpath/CCL that Pedone had been experiencing vaginal bleeding, which was determined to have originated in Pedone's uterus.

Pedone died in March 1997; her husband died six months later. Her husband's parents, Vincent Pedone and Jane Palma, acted as executors of her estate in this action. They also represented their grandchildren, Alexandra and D'Andrea Pedone.

The plaintiffs contended that if the abnormalities had been detected in timely fashion, and if the cancer had been properly diagnosed, Karen Pedone would have survived.

Metpath/CCL contended that Pedone's vaginal bleeding signaled a high-risk of cervical cancer. It added that it would have rescreened the slide if it had been aware of the bleeding.

Halpert argued that the vaginal bleeding did not constitute a risk factor; that medication prescribed to address the uterine bleeding worked, thereby proving that the uterus was the source of the bleeding; and that the bleeding did not stem from a cervical lesion. He testified that he was unaware of Metpath/CCL's protocol, that the protocol did not mention bleeding, and that the lab was negligent for failing to have read the smear correctly in 1993.

INJURIES *cancer*

Pedone was diagnosed with invasive cervical cancer in 1994. She underwent a hysterectomy, followed by radiation therapy with associated chemotherapy to potentiate the effect of the radiation. The cancer recurred, leaving Pedone with a 5% chance of survival. A series of experimental chemotherapy procedures was then initiated.

Pedone died in March 1997. Her husband died six months later. She is survived by two children, ages 11 and 13, who now live with their paternal grandparents.

RESULT The jury rendered a defense verdict in favor of Halpert. It found that he was not at fault for not reporting the bleeding to Metpath/CCL. It rendered a plaintiff's verdict against Metpath/CCL. It determined that the lab had failed to correctly read the Pap smear.

ALEXANDRA

PEDONE \$1,000,000 past loss of parental guidance
\$3,500,000 future loss of parental guidance
 \$4,500,000

D'ANDREA PEDONE \$1,000,000 past loss of parental guidance
\$3,000,000 future loss of parental guidance
 \$4,000,000

KAREN PEDONE

(ESTATE) \$625,000 loss of services (stipulated)
\$6,000,000 pain and suffering
 \$6,625,000

TRIAL DETAILS

Trial Length: 2 weeks
 Jury Deliberations: 5 hours
 Jury Poll: 5-1 (Richard Halpert);
 6-0 (Metpath/CCL)
 Jury Composition: 3 male, 3 female

CASE STATUS

Post-trial motions are pending.