

TYPE OF ACTION: Medical Malpractice- Delay in Diagnosis of Hodgkin's Disease.

CASE NAME: *Toe* v. Koe**

COURT: Circuit Court of Fairfax County

SETTLED: \$690,000

ATTORNEYS FOR PLAINTIFF: William E. Artz, Arlington, Virginia
Dominique D. Michel, Arlington, Virginia

On February 26, 1996, Plaintiff, age 41, presented to Defendant's office with a one week history of a swollen gland under his jaw. There he was examined by Defendants, no lymph node was able to be palpated, blood work and a throat culture were ordered, and were within normal limits.

On September 5, 1996, seven months later, Plaintiff returned to Defendant with complaints of lumbar pain associated with chills. X-rays obtained were normal, sedimentation rate was 30 (normal range 0-15), hematocrit was 43.9, Plaintiff was diagnosed with chronic lower back pain and Motrin was prescribed. He was instructed to return to the clinic in six weeks.

On February 19, 1997, the Plaintiff returned to Defendant offices, complaining of flu-like symptoms for the past two weeks, intermittent body pain and fevers. Blood work was ordered that demonstrated a sedimentation rate elevated to ninety (90) and his hematocrit had fallen seven points to 37.2, with no explanation.

On April 4, 1997, Plaintiff returned to Defendant's office with complaints of chronic cough and night sweats. A Health Assessment was scheduled for May 5, 1997, during which a physical exam revealed a papular rash on the left arm, complaints of night sweats, hematocrit was down to 36.4 and rheumatoid factor was negative. No further diagnostic tests were ordered.

On May 21, 1997, Plaintiff was in Defendant offices complaining of a pruritic rash and musculo-skeletal pain. Benadryl was prescribed and three days later the rash was diffuse in nature appearing on the trunk and arms. His condition was diagnosed as rheumatic arthritis.

On February 6, 1998, Plaintiff returned to Defendant's office with a lump in his groin area. Inguinal node biopsy revealed mixed cellularity Hodgkin's disease, Stage IVB. Plaintiff was initially treated with 8 cycles of chemotherapy. He then suffered a reoccurrence and was treated with high dose chemotherapy which has also failed to eradicate his cancer. He has undergone stem cell transplant but unfortunately, his chance for survival is now less than 20%.

Plaintiff's Internal Medicine experts were prepared to testify that the Defendants were negligent in failing to appreciate the significance of the constellation of symptoms, signs and complaints which plaintiff presented with on February 26, 1996, such as a history of flu-like symptoms, night sweats, chronic malaise and elevated sedimentation rate, all of which required a complete work-up to include a CAT scan thereby causing a 14 month delay. In their opinion, a complete work-up would have revealed adenopathy leading to a diagnosis of Hodgkin's. Plaintiff's causation experts were prepared to testify that had the Plaintiff been diagnosed February, 1997, more likely than not, his chances for survival would have been significantly greater than 50%. The 14 month delay had resulted in a less than 50% chance for survival and increased his chance for a reoccurrence.

The plaintiff is married with seven children.

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*Names of parties are pseudonyms for confidentiality