

TYPE OF ACTION: Medical Malpractice – Failure to Timely Diagnose Lung Cancer

CASE NAME: *Moe v. *Koe, M.D., *et al.*,

SETTLEMENT/ DATE: \$ 1, 100,000.00 March 2012

JURISDICTION: Virginia Beach Circuit Court

PLAINTIFF’S LAWYERS: William E. Artz, Andrew J. Waghorn, of Arlington, Virginia, and Amberley Hammer of Norfolk, Virginia

CASE SUMMARY:

This was a wrongful death action premised on medical malpractice. The Plaintiffs alleged that the Defendant radiologist misread, as normal, a 12/22/07, chest film and a 07/31/08, x-ray of decedent’s left arm, both of which showed a mass in the left lung. The mass was suspicious for cancer, and required urgent follow-up radiological evaluation and timely treatment. However, relying on the radiologist’s erroneous interpretations of the films, the decedent’s family doctor diagnosed pneumonia and an upper respiratory tract infection, which were treated with antibiotics.

Decedent’s lung cancer was first diagnosed by CT-guided core biopsy on 08/06/09. As a result of the 18-month delay in diagnosis and treatment, the cancer had spread from a curable to an incurable stage and became inoperable. Despite aggressive chemotherapy and radiation treatments, the decedent died from lung cancer on 10/28/11, at age 66. He left surviving his wife and three adult daughters, who claimed damages under Virginia’s Wrongful Death Act.

The defendant claimed that the decedent’s type of lung cancer was extremely rare and difficult to pick up on a chest x-ray and/or an x-ray of the left shoulder. Defendant also claimed that he was merely providing over-reads for the primary care physician, who also did not appreciate the mass on any of decedent’s radiology films. Further, the defense claimed that the 18-month delay in diagnosis did not change the outcome for the patient, who likely would have succumbed to the aggressive lung cancer regardless of when it was diagnosed.

*Names camouflaged