

Man Dies of Cancer Despite X-ray Findings

Mr. and Mrs. G were a loving couple who had been married since 1956. Their lives had worked out just the way they had wanted. Mr. G had started a business with his sons and they were able to work with and see each other almost every day. Mr. G was a loving husband, father, and a well respected community leader.

In November 1996, a chest x-ray revealed that Mr. G had lung cancer. The tumor was over 4 cm in diameter, and doctors caring for Mr. G agreed that it had progressed to the point where it could not be successfully treated. Although he fought valiantly to survive, Mr. G succumbed to the cancer on Oct. 9, 1997, at the age of 62.

When Mr. and Mrs. G first learned of the cancer, they were shocked. Mr. G had undergone other chest x-rays over the previous two years which were all reported as normal. Consequently, the cancer finding, which was so sudden and so advanced, led Mrs. G to seek counsel to investigate the care rendered to her husband in the years prior to his death.

Mr. G's general treating doctor had been a physician named Dr. One. In November 1994, Mr. G reported to the doctor that he been coughing up blood and experiencing shortness of breath. Dr. One ordered a chest x-ray at that time and wrote, "Probable overlap of densities in the right ribs simulating a density. One might consider a follow-up to con-

firm this impression." Unfortunately, Dr. One never ordered a follow-up, and his office reported to Mr. G that the study was "negative."

Lightning struck twice in November 1995, when Mr. G had another chest x-ray while in the hospital for urological surgery, this time performed by Dr. Two. At that time, the x-ray report was highlighted with a section which stated, "Please read this report immediately." The impression from the x-ray stated, "There is an area of abnormal density along the right mid lung field peripherally which requires further work-up to exclude neoplasm." The report, however, never made it to Mr. G's hospital chart.

During the discovery of this case, it was learned that the 1995 x-ray report was supposed to have been automatically sent, by e-mail, from the hospital to Dr. Two. The hospital believed its system for handling such communication was foolproof, and that Dr. Two must have gotten the report. Nevertheless, the report never appeared in Dr. Two's records and he denied ever receiving it.

In defending the case, Dr. One claimed that he had actually reviewed the November 1994 x-rays with a radiologist at the hospital. He claimed he could not remember which radiologist he consulted, but that he was told there was nothing of concern on the films. In response to that assertion, radiologists at the hospital stated that an addendum to the initial x-ray report would have

been done had such opinions been rendered. No addendums were ever done.

In addition to disputing liability, experts hired by Dr. One opined that Mr. G's condition was beyond hope even if his cancer had been discovered, and treatment had been initiated, when the first films were taken in 1994. The experts for Dr.

Two rendered the same opinions about the x-rays taken in 1995.

Continued on page seven



Decisions...Decisions...Decisions...

Expert physicians hired by the plaintiff had drastically different opinions. They opined Mr. G's form of cancer was curable had it been caught in time. They further stated that Mr. G would have survived his bout with cancer if his doctors had initiated care following his 1994 x-ray, and that he was curable even following the x-rays taken in 1995.

The x-ray report was highlighted, "Please read this immediately."

Attorneys Greg Barnhart and John Shipley represented Mrs. G, who was referred by attorney Jay M. Wasserman of Ft. Lauderdale. All of the defendants disputed liability and causation throughout the pendency of the case. On the morning of trial, however, the case was settled with all the defendants for a confidential sum. ■

Delivery Driver Ignores Signs, Strikes Pedestrian

On Dec. 6, 1999, Arnold Doe got off work and rode a local bus home. He got off the bus at approximately 7:30 p.m., and walked down a residential street. While walking, Mr. Doe was struck from behind by a delivery truck. Local fire rescue found Mr. Doe had suffered multiple trauma, including fractures of both legs, deep abrasions to his chest and abdomen, and significant burns. Mr. Doe was transported by trauma hawk to a nearby hospital. The next morning, Mr. Doe passed away.

Near the residential street where Mr. Doe was struck down, is a delivery truck yard. The city had posted large "no through trucks" signs to discourage trucks from using this area. Apparently there were problems in the past with delivery trucks using the street to avoid traffic and save time.

The delivery truck driver failed to comply with the signs in an effort to save time. In addition to this violation, the driver failed to observe Mr. Doe, who in fact was a very large man. The truck had traveled 70 feet after impact with Mr. Doe. The accident was investigated by the Florida Highway Patrol.

Attorney Earl Denney represented Mr. Doe's only surviving, 20-year-old son, who lived in another state. Years earlier, Mr. Doe had sustained a head injury and was disabled. He worked in a protected area of Goodwill Industries. Under these circumstances, there were limited economic damages. Furthermore, under Florida's Wrongful Death Statute, family members can recover minimal damages due to mental pain and suffering, and loss of support of service.

Mr. Denney ultimately resolved the case on behalf of the surviving son, for \$400,000. This recovery was an outstanding amount, considering the economic loss and Florida's statute. ■

Attorneys Selected as Top Lawyers



Chris Searcy



Jack Scarola

Chris Searcy and **Jack Scarola** were listed in *Miami Metro Magazine's Legal Guide* as Top Lawyers in South Florida.

Approximately 5,000 lawyers in the area were asked to recommend the top five lawyers in a particular field or area of practice. Of those attorneys recommended, 240 were selected for this first edition.

The purpose of the *Legal Guide* is to list the names of the area's highly recommended lawyers and law firms. This first edition was designed to help individuals who are faced with the difficult decision of hiring an attorney in a time of need. ■

