

Doctor Neglects Signs of Cancer

Large Settlement Procured Despite Insurer's Attempt to Cap Damages

Gloria and Russell Kaster met each other through their parents when they were respectively five and eight years old. They have practically spent their entire lives together. In 1996, they were enjoying their much deserved retirement when they decided to move from New York to Ocala, Fla. At that time, Mrs. Kaster was 70 years old and Mr. Kaster was 73.

When the Kasteters arrived in Florida, Mrs. Kaster sought the services of primary care physician, Dr. Mandranjan Singh. On Jan. 23, 1997, she went for a complete physical examination. Dr. Singh's examination included taking a stool sample and sending it to a laboratory for tests. On Jan. 24, 1997, the results revealed positive findings for blood in Mrs. Kaster's stool, yet Dr. Singh never followed up with Mrs. Kaster and never explained that such results could be indicative of colon cancer. Two years later, when seeing another doctor, Mrs. Kaster learned that she had colon cancer and that it had spread to her liver.

Attorneys Chris Searcy and Darryl Lewis represented Mr. and Mrs. Kaster against Dr. Singh for his negligence. A Notice of Intent to Initiate Litigation was filed, and at the conclusion of the pre-suit period Dr. Singh admitted liability and requested arbitration on the issue of damages. In Florida, if a physician or other health care entity admits liability and requests arbitration on the issue of damages, the claimants can either agree to arbitrate or reject arbitration and choose to file a lawsuit. If a claimant accepts arbitration, there is a \$250,000 cap on all of the claimant's non-economic damages, such as pain, suffering, and mental anguish. However, if the claimant rejects arbitration and chooses to file a lawsuit, there is a \$350,000 cap on all of the claimant's non-economic damages.

Because of Mrs. Kaster's age and the fact she was retired, her economic damages were very small. The cap on her non-economic damages would therefore have a severely negative impact on the value of her claim against the negligent physician.

Mr. Lewis successfully argued, despite the arguments made by counsel for the defendant, that the physician's demand for arbitration was defective because it was not made in strict compliance with Florida Law, and thus Mr. and Mrs. Kaster should not have any cap on their non-economic damages.

After defeating the insurer's attempts to cap the non-economic damages, Mr. Searcy and Mr. Lewis were able to negotiate a present value settlement of \$950,000 for the Kasteters. ■



Russell and Gloria Kaster in 1996.