

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

January, 2008

Statewide Jury Verdict Coverage

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Unbiased and Independently Researched Jury Verdict Results

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Correction

In our December issue, we reported on the case of *Jones v. Ramirez*. In our report we mistakenly listed Brian N. Custy as plaintiff's attorney. In fact, Mr. Custy was second chair for plaintiff in that case. Lead counsel for plaintiff was Kenneth J. Allen. We regret the error.

Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

Medical Negligence - A woman's estate criticized a family physician for missing a diagnosis of cancer and thereby reducing the woman's five-year chance of survival to zero

Estate of Bush v. Haas,

30D01-0507-CT-526

Plaintiff: W. Scott Montross, Timothy J. Kennedy, and Belinda J. Kunczt,
Montross Miller Muller Mendelson & Kennedy, Indianapolis

Defense: Michael E. O'Neill and

Patrick P. Devine, *Hinshaw &*

Culbertson, LLP., Schererville

Verdict: \$980,000 for plaintiff

County: **Hancock**, Superior

Court: J. Snow, 3-19-07

In the afternoon of 1-16-02, Elaine Bush, age 56, went to the ER at Hancock Memorial Hospital in Greenfield with abdominal pain and difficulty breathing. She was admitted to the hospital and came under the care of Dr. Ray Haas, Family Practice, Greenfield.

The next day, on 1-17-02, another family practitioner, Dr. Gary Sharp, was covering for Dr. Haas and providing care for Dr. Haas's patients, including Bush. Dr. Sharp ordered a chest CT

scan and entered a progress note in Bush's chart to rule out the possibility of cancer.

The radiologist's report came back with a finding of a potential problem with the lower lobe of Bush's right lung. The report noted that "malignancy cannot be excluded," and it recommended a follow-up study in six to eight weeks. Bush was released from the hospital the next day, but no one informed her of the results of the CT scan or of the recommended follow-up.

Bush saw Dr. Haas again in his office approximately two weeks later on 2-1-02. Despite the fact that Dr. Haas had by that time received the radiologist report and had ample opportunity to see Dr. Sharp's progress note, he again did not mention the result of the CT scan or the need for a follow-up.

Another year went by, and Bush began to experience numbness in her left arm along with decreased motor skills. On 3-17-03, she consulted on the matter with Dr. Nadya Ajanee, Neurology, Indianapolis.

Dr. Ajanee referred Bush to Community Hospital where she was admitted as an inpatient. The next day, on 3-18-03, Bush underwent an MRI of the brain and a CT scan of her chest. The result revealed a large neoplasm in the lower lobe of her right lung, as well as cancer in the left occipital lobe of her brain.

Bush underwent treatment for lung cancer, but it was to no avail. She died on 7-26-03 of a combination of lung cancer and acute respiratory distress. Her estate presented the matter to a medical review panel consisting of three family physicians. They were Dr. Mark Truax of Crawfordsville, Dr. John Walker of Indianapolis, and Dr. Peter Jakacki of Fort Wayne.