

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

July 2018

Statewide Jury Verdict Coverage

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Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

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

Medical Negligence - An employer of a contract radiologist was blamed for the radiologist's error in misreading in a CT scan and missing a rectal cancer diagnosis – the alleged delay resulted in curable cancer spreading to a now terminal condition – the plaintiff took an award of \$15,000,000 which is not subject to Indiana's medical malpractice scheme because of the defendant's posture in the litigation that it is not a medical provider

Webster v. CDI Indiana, 1:16-2677
Plaintiff: Kathleen Ann DeLaney, *DeLaney & DeLaney*, Indianapolis and Barbara J. Germano and Jerry A. Garau, *Garau Germano*, Indianapolis
Defense: Norris Cunningham, *Katz Korin Cunningham*, Indianapolis and Carol A. Dillon, *Bleeke Dillon Crandall*, Indianapolis
Verdict: \$15,000,000 for plaintiffs

Federal: **Indianapolis**

Judge: J. Magnus-Stinson, 6-15-18

Courtney Webster, then age 41, was diagnosed with Stage 1 rectal cancer in September of 2009 after undergoing a colonoscopy. The tumor was removed in the colonoscopy and further excised in a subsequent surgery. She was considered cured.

Webster was constipated and had blood in her stool in 2014. Her gastroenterologist referred her to CDI of Indiana for a CT scan. Her CT scan was read by a contract radiologist, Dr. Michael Walker. Walker didn't actually work for CDI. He worked for a second company

and merely used the facilities. This was unknown to Webster who for all practical purposes believed that Walker was a CDI employee. At the time of Walker's read in November of 2014, this seemed unimportant.

It turns out Walker read the CT and saw nothing amiss. He had missed a tumor in Webster's rectum. The cancer was caught in an April 2016 colonoscopy. It had grown significantly and had spread to Webster's lung. Her cancer is now at Stage IV and it is considered likely it will progress to a terminal condition in a few years. Webster, a long-time real estate agent and the breadwinner in her family, has a husband and two teenage sons.

The Websters sued CDI and alleged medical error by Walker in misreading the CT scan. The error led to a 17 month diagnosis delay, Webster's curable cancer moving to a terminal state. Webster's proof burden required evidence of both CDI's apparent authority as Walker's employer and that Walker had violated the standard of care. Webster's experts at trial were Dr. Daniel Feingold, (Causation), Tenafly, NJ; Dr. Richard Gore, Radiology, Highland Park, IL; and Dr. Ronald Blum, Radiology, New York, NY.

In order to quantify damages, there was proof that until the 2016 cancer diagnosis, Webster had earned \$75,000 or so per year. Beyond her claim for medical bills, lost wages, and pain and suffering, Webster's