

## Breast Cancer: Clinic Nurse Shares The Blame For Delayed Diagnosis, Patient's Untimely Death.

The husband, as executor of his deceased wife's estate, sued the women's health clinic, the clinic nurse, her supervising physician and the radiologist who read a mammogram and a sonogram.

The suit filed in the Supreme Court, Queens County, New York alleged that timely diagnosis could have saved his late wife's life. By the time she finally had a mastectomy most of the dissected lymph nodes were positive for cancer which had metastasized.

The sums agreed to be paid by way of settlement allocated fault 16% to the clinic nurse, 15% to her physician supervisor and approximately 60% to the radiologist who apparently misread the mammogram and the sonogram that were done on referrals from the clinic nurse.

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***The estate's lawyers argued that the clinic nurse should have referred the patient for a biopsy and/or evaluation by a surgeon.***

***The patient still complained about the lump and she and the nurse could both tell it was growing.***

***The nurse should have presumed it was cancer notwithstanding the negative mammogram and sonogram.***

SUPREME COURT  
QUEENS COUNTY, NEW YORK  
March 10, 2009

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### **Cancer Presumed Until Ruled Out By Biopsy**

Had the case not settled, the husband's lawyers were prepared to argue that the clinic nurse should have referred her patient for a biopsy, a definitive method to rule out cancer, when the patient continued to complain about the lump in her breast, notwithstanding the negative mammogram.

As the lump progressed to what would be characterized as a mass rather than a lump, which the patient and the nurse could both tell was growing, the nurse should not have relied upon the negative sonogram report, but should have referred the patient for a biopsy and/or evaluation by a breast surgeon, the husband's experts were prepared to say. **Estate of Jones v. Lefkowitz, 2009 WL 2998241 (Sup. Ct. Queens Co., New York, March 10, 2009).**