

Nurse As Patient, Malpractice Plaintiff: Jury Imposes A Higher Standard For Contributory Negligence.

A registered nurse died from metastatic breast cancer at age thirty-four.

She was survived by her husband and three young children. Her husband, as administrator of her probate estate, sued the physician specialist in breast surgery to whom his late wife first reported the lump in her right breast. He also sued the ob/gyn who was following her pregnancy. His late wife was pregnant with their third child at the time the breast lump issue first came up.

The ob/gyn's insurance settled for an undisclosed sum right before the case went to trial. In the trial, however, the jury declined to impose liability upon the breast surgeon.

Nurse/Patient Neglected To Follow Up Jury Finds Contributory Negligence

Individuals who served on the jury in the Superior Court, Richmond County, Georgia reportedly disclosed afterward they thought the deceased's own neglect in failing to follow up with diagnostic and treatment recommendations

was as much the cause of the unfortunate outcome as any malpractice by her physicians.

When she first reported the lump the physician sent her for an ultrasound. A board certified radiologist read the ultrasound and recommended a biopsy.

The breast surgeon did a repeat ultrasound five days later at the clinic visit at the same time he passed on the radiologist's recommendation for a biopsy and told the patient to return to see him in thirty days.

Her ob/gyn reportedly diagnosed her as having clogged milk ducts, the nurse never revealing to her ob/gyn that the other physicians wanted a biopsy, obviously to rule out cancer.

Nothing else happened for approximately ten months until the patient returned to the breast surgeon with swelling which initially diagnosed as mastitis. During a procedure to relieve the swelling the pathologist confirmed it was breast cancer. **Gough v. Tucker, 2008 WL 2404428 (Sup. Ct. Richmond Co., Georgia, March 26, 2008).**