

\$1.8M For Failure to Diagnose

By Linda Bean
(Brotzker v. Robert H. Dilks, M.D., and Associated Specialists For Women's Health, P.A.)
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A Gloucester jury, finding that a Turnersville physician failed to diagnose a case of breast cancer, awarded his former patient \$1.8 million.

Superior Court Judge John Holston reduced last Thursday's jury award by 25 percent -- down to \$ 1.38 million -- because Elizabeth Brotzker's condition was pre-existing, but prejudgment interest boosts the total to \$ 1.86 million, according to her lawyer, [Andrew Stern](#), an associate in the Philadelphia and Mount Laurel offices of Philadelphia-based Beasley, Casey.

The defendants' attorney, Joel Korin of Woodbury's George, Korin, Quattrone & Blumberg, did not return telephone calls to his office for comment. According to Stern, the defendants have a \$ 1 million malpractice policy through Princeton Insurance Co. He says that his client nevertheless intends to pursue the full value of the judgment.

Stern says the size of the verdict may have been tied to evidence presented at the eight-day trial that indicates Brotzker, 38, will not live past the age of 40.

Stern says Brotzker complained to Dilks of a lump in her right breast in September and October of 1987. While the doctor noted in his records both times that her breasts were asymmetrical, he did not order further diagnostic tests and "told her it was a fibrous cyst," Stern says.

In January 1988, Brotzker saw Dilks a third time and complained that her breast was tender and red, Stern says. The doctor ordered a mammogram, which did not detect the presence of a mass. The mammographer did recommend additional diagnostic tests, and Dilks referred Brotzker to a surgeon, Stern says.

"But he expressed no urgency to her. He referred her and had her make the appointment," Stern says.

In March 1988, a surgeon performed a fine-needle aspiration of the breast and diagnosed advanced inflammatory breast cancer -- a tumor "about the size of a tennis ball," Stern says. The size of the tumor precluded immediate surgery, so Brotzker underwent a year of chemotherapy to reduce its size. In March 1989, Brotzker underwent a radical mastectomy and radiation while on the operating table. She developed complications several months later and underwent a second operation for the removal of bones and tissue in her right chest wall. Complications from the second surgery required a third operation. In 1990, Stern says, Brotzker was diagnosed with a recurrence of her cancer.

The plaintiff's expert testified that, as a result of the delay in diagnosis, Brotsker's chances for survival plunged from a range of 60 percent to 80 percent in the fall of 1987 to 20 percent to 38 percent in the spring of 1988 when a diagnosis was made, and to zero percent at the time of recurrence, Stern says.

The defense, Stern says, contended that the tumor was not present at the times testified to by the plaintiff. "It was not a cut-and-dried case of liability," he adds.