

# Delco jury awards \$2.9M to doctor's widow

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MEDIA COURTHOUSE — Maureen Ebel tearfully testified that as she watched her husband's condition deteriorate over several days in July 2000 - and eventually saw Dr. Marc Ebel die -- she vowed that she would find out what happened.

"I knew I could not rest until I found out why he died," she (Ebel) told a jury.

The jury late Tuesday awarded \$2.9 million in damages in a medical malpractice suit and determined that Ebel died as a result of negligence on the part of two Delaware County physicians -- Dr. Michael Soojian, a hematologist and oncologist, and Dr. Leonard Berkowitz, who specializes in pulmonary medicine.

Berkowitz was a long-time family friend and colleague of Ebel. Both physicians, who denied any wrongdoing during the 12-day civil trial, were among seven defendants accused of malpractice in the suit filed by Philadelphia Attorney Thomas R. Kline.

The jury did find negligence on the part of Dr. Thomas P. O'Dea, a surgeon, but ruled it was not a substantial factor in causing any harm to Ebel. No negligence was found on the part of the other defendants.

Kline, who represented the widow, said the final verdict will exceed \$3.2 million with the addition of pre- and post-judgment interest that is automatically tacked on to the damage verdict.

Both attorneys James P. Kilcoyne, who represents Soojian and Frederick DeRosa, attorney for Berkowitz, said they have not yet decided whether to appeal.

"The doctors exercised their clinical judgment in what the best approach would be for correcting the bleeding," said Kilcoyne. "He (Soojian) exercised his best judgment."

"We have not made any decision regarding an appeal," said DeRosa. "This has been a very emotional case. (Berkowitz) didn't feel he did anything wrong."

Kline presented testimony that Ebel, 53, of West Chester, was suffering from recurrent Hodgkin's disease when he was hospitalized in the summer of 2000 at Crozer-Chester Medical Center.

Kline blamed Ebel's death on complications that erupted from a lymph node biopsy of the liver and caused intra-abdominal hemorrhaging that was not properly diagnosed or treated to stop the bleed.

Mrs. Ebel, a trained nurse, said at one point on July 3 after the biopsy, her husband told her "I know I'm still bleeding" and asked for a surgeon.

She testified she was told that the bleeding would stop. But she said despite transfusions, Ebel's condition continued to worsen and on the morning of July 4 when she went to his bedside she saw that his stomach was distended. He was disoriented and mumbling.

"My husband's abdomen was so gigantic. It stuck up from the blankets. It looked like he was more than nine months pregnant," she testified.

"I said to the nurse, look at him." She quoted the nurse as stating that "Berkowitz was aware."

Kline said that on July 3, 2000, Ebel underwent a needle biopsy to the liver at Crozer that caused the bleeding that spread to the abdomen. His condition continued to deteriorate while the team of doctors failed to take the proper medical steps to stop the hemorrhaging. "The man bled and bled and bled until his body gave out. He had a multi-system failure," Kline told the jury in his closing.

He said the verdict falls within the insurance coverage for the two Delaware County physicians and the hospital. The jury determined that Berkowitz was found to be 30 percent liable on his own and through his association with Crozer, and Soojian was found to be 70 percent responsible.

"Our basic case was that when Dr. Ebel had the procedure on July 3 at 10:50 a.m. and that by 1 p.m. they made the right decision to do the Cat scan. By 2:47 in the afternoon of July 3 the test was done and the results were known and the patient was beginning to go into shock. That was the most opportune time -- the window of opportunity to safely do an embolization which is essentially to put glue in a vessel to stop the bleeding," said Kline.

"It was something that was not done, but what was recommended by the radiologist, who did the procedure, and was found not to be negligent," he added.

"They did it literally a day late. And by the time they did it because of the enormous delay, due to what has now been found to be negligent conduct, Dr. Ebel was unsalvageable," he said.

Ebel died in the early morning hours of July 5.

Kline said he has represented more than a dozen families of physicians, who have been the "victims of substandard medical care."

He said that Mrs. Ebel "grieves" over the loss of her husband of 27 years.

However, he referred to the promise she made on her husband's deathbed and said the case accomplished that. "She felt that her mission was completed and that she knew she had been true and faithful after having promised that she would find out what happened," he said.