

# SETTLEMENT REACHED IN CANCER MISSED DIAGNOSIS CASE

## *New Safeguards Made Part of Hospital Policy as a Result*

One of Kline & Specter's clients was 39 years old when she checked into a hospital in the Philadelphia metropolitan area in 2003 for treatment of uterine cancer. It is commonly understood that uterine cancer is one form of cancer that can be successfully treated. The initial surgical treatment consisted of a hysterectomy, and our client was discharged three days after the procedure believing that she was cancer-free. Our client was told that her pathology specimens apparently showed no evidence of metastasis to her lymph nodes. She returned for follow up visits and because her doctors believed that her pathologic findings were negative, there was no need for her to receive chemotherapy or radiation therapy.

Approximately two years passed and on October 21, 2005, a follow up CT scan showed a number of abnormal enlarging lymph nodes. A biopsy confirmed the presence of metastatic cancer. But perhaps even worse, her new doctors from another hospital in the Philadelphia metropolitan area had reviewed her original pathology slides that had been interpreted by her initial pathologist. Her new treating doctors discovered that cancer was clearly present in her lymph nodes back at the time of her initial surgery. In other words, she had discovered that her initial pathology slides had been misread and as a result, her cancer was allowed to progress in her body for over two years with no treatment.

Had her pathologic slides been correctly interpreted the first time, our client would have been aggressively treated with various cancer treatment modalities. Instead, her disease went unchecked and she suffered permanent damage and now faces serious future risks for the rest of her life.

According to one expert in the case, Thomas J. Rutherford, M.D., the Director of Gynecology at Yale University School of Medicine, had our client received proper treatment as of 2003, when the metastatic cancer was present in the initial pathology specimens, she would have likely enjoyed a normal life expectancy. Unfortunately, Dr. Rutherford stated in his report that due to the approximate two-year delay in diagnosis of her cancerous condition, she will experience premature death from uterine cancer. Her attorney, Andy Stern, a partner at the Philadelphia law firm of Kline & Specter, P.C., said the lawsuit was settled recently against the defendant pathologist and the original treating hospital. The names of these individuals and our client remain confidential under the terms of the settlement agreement. In addition, the financial terms of settlement also may not be released due to a settlement agreement.

However, perhaps most important, the hospital that was involved in the improper diagnosis has agreed to change its policy. More specifically, this hospital has agreed that all newly diagnosed malignancies in patients will now be confirmed by a second board-certified pathologist on the

hospital's staff to reduce the risk of another missed diagnosis. "In some large hospitals, due to their high volume practices and inadequate safeguards, cancer patients can 'slip through the cracks'," said Stern. Unfortunately, that is exactly what led to our client's misdiagnosis in this case. Hopefully, the demand for this change in hospital policy will help improve cancer patient outcomes and ultimately save lives.