

By Staff Writer
Josh Goldstein
Friday, April 19, 2010

The Philadelphia Inquirer

Settlement in Chester County cancer death lawsuit

The medical malpractice lawsuit filed by the family of Lathenia Petty against her primary care doctor, a radiologist and Pottstown Memorial Hospital was settled last week seven days into the trial in Chester County. The settlement terms were not disclosed and will be filed under seal according to an order by Judge Edward Griffith, who had earlier allowed the Petty family's lawyer Thomas R. Kline to argue before the jury that primary care doctor Heidi Weston was held liable for punitive damages.

The key question in the lawsuit was how did a suspicious 2005 breast ultrasound of the then-26-year-old mother of five fall through the cracks resulting in a delay of her cancer diagnosis for nearly a year – time during which her tumor tripled in size. Before the settlement the defendants pointed fingers at each other for a cascade of errors that occurred after Weston sent Petty to get a mammogram and ultrasound of a lump in her breast.

In April 2005, Petty went to Pottstown Memorial Hospital for the scans of her breast. The results of the ultrasound were suspicious and the radiologist's report said Petty needed a follow up biopsy to check for cancer. But the fax he sent to Weston never got to her office. The hospital had the wrong number, according to the suit. Kline identified 105 radiology studies performed at Pottstown for Weston's patients, ranging from an x-ray of a 16-year-old's knee in May 2004, to a breast ultrasound in March, 2008, that were sent to the wrong fax number.

Despite a note in Petty's medical record to follow up on the lump, Weston did not raise the problem during seven office visits over more than a year, the suit contended. Kline also argued, and presented expert testimony saying the hospital was negligent in not updating its records and that the radiologist was also liable for failing to call to notify Weston of the suspicious results.

While the settlement was not publicly available the fact that the suit was ended during the course of the trial suggests that all three parties – Weston, the hospital and the radiologist – agreed to compensate Petty's family for the delays in her diagnosis that resulted in her 2009 death from cancer.