

# VERDICTS & SETTLEMENTS

## Failure to Order Ultrasound Led to Terminal Cancer: Plaintiff

On March 28, 2017, plaintiff Chasidy Plunkard, 41, was diagnosed with Stage IVB metastatic cancer. Plunkard claimed that her cancer diagnosis was delayed due to the negligence of her gynecologist, Charles Marks.

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Plunkard v. Marks  
\$1.335M Verdict

**Date of Verdict:** June 17, 2021.

**Court and Case No.:** U.S. Dist. Court, M.D. of Pa., No. No. 1:18-cv-01536-JPW.

**Judge:** Jennifer P. Wilson.

**Type of Action:** Medical malpractice.

**Injuries:** Delayed diagnosis.

**Plaintiffs Counsel:** Kila B. Baldwin and Mark S. Polin, Kline & Specter.

**Plaintiffs Experts:** John H. Farley, gynecology, Bethesda, Maryland; John C. Wirth III, OB-GYN, New York, New York; Andrew C. Verzilli, economics, Lansdale.

**Defense Counsel:** Collin T. Keyser and Erin M. Redding, Saxton & Stump, Lancaster.

**Defense Experts:** Chad L. Staller, economics, Philadelphia; Robert A. Dein, OB-GYN; Villanova; Dolores H. Pretorius, radiology; Del Mar, California; Stephen C. Rubin, gynecology; Wynnewood.

COMMENT:

On March 28, 2017, plaintiff Chasidy Plunkard, 41, was diagnosed with Stage IVB metastatic cancer. Plunkard claimed that her cancer diagnosis was delayed due to the negligence of her gynecologist, Charles Marks.

Plunkard sued Marks and his practice, WellSpan OB/GYN. She alleged that Marks failed in his standard of care toward her and further alleged that his failure constituted medical malpractice. On Jan. 18, 2016, Marks evaluated Plunkard during an appointment, after an ultrasound had found a complex cyst on her right ovary. The ultrasound also showed a thickened endometrial lining, which was consistent with Plunkard's irregular bleeding. During Marks' exam, he performed an endometrial biopsy in response to the thickened endometrial lining to rule out uterine cancer. However, according to Plunkard, Marks did nothing about the complex right ovarian cyst also found on ultrasound. Marks allegedly did not document this finding in his office note and did not order a repeat ultrasound to reassess the complex ovarian cyst. Marks then advised Plunkard that she need not return to the office.

For the next 13 months, Plunkard saw multiple providers for her thyroid and musculoskeletal/fibromyalgia complaints. On March 28, 2017, in response to her history of abdominal pain, Plunkard underwent exploratory laparoscopic surgery and removal of her gallbladder. During that surgery, Plunkard was found to have diffuse, metastatic cancer, suspected to be of gynecologic origin, throughout her abdomen.

According to the plaintiff's experts in gynecology and obstetrics-gynecology, Marks' failure to appropriately evaluate and follow up on a complex cyst, via an ultrasound, resulted in a 14-month delay in the diagnosis of Plunkard's ovarian cancer. This delay resulted in her ovarian cancer advancing from Stage I, confined to the ovary, to Stage IVB, metastatic cancer, the experts concluded.

The defense maintained that Marks' treatment of Plunkard met the standard of care. The defense's expert in gynecology testified that it was reasonable and within the standard of care for Marks not mandate a follow-up pelvic ultrasound in a very low-risk patient, following the January 2016 exam. According to the expert, a short-term ultrasound follow-up would merely have shown resolution or stability of her right benign ovarian cyst and a normal left ovary, and would not have led to an earlier diagnosis of her cancer.

The defense's experts in obstetrics-gynecology and gynecology testified that Marks appropriately evaluated Plunkard on Jan. 18, 2016. According to the experts, given the patient's age, benign personal and family history, her complete resolution of pelvic symptoms and detailed history that she gave Marks, it was within the standard of care for the physician not to order a repeat ultrasound for six to eight weeks. The experts opined that the medical guidelines suggest that ultrasound follow-up is not needed for hemorrhagic cysts equal to or less than five centimeters, which Plunkard had. With Plunkard, it was exceedingly unlikely that the cyst would be something other than benign and require short-term follow-up, the experts concluded. The defense's expert in radiology confirmed that it was not necessary for Marks to order an ultrasound.

On April 18, 2017, Plunkard underwent definitive surgery with a gynecologic oncologist, including a radical abdominal hysterectomy, removal of both ovaries, and removing as much of the metastatic ovarian cancer from her abdomen as possible. Following the surgery, Plunkard underwent chemotherapy treatment that was not successful. As a result, she has been diagnosed with terminal ovarian cancer for which the only remaining option is palliative therapy.

According to Plunkard's expert in gynecology, there are no longer potentially curative treatments available for her. As a result, she will die a premature and very unpleasant death. Were it not for the delay in the diagnosis of her ovarian cancer, she would likely have enjoyed a normal life expectancy, the expert determined.

Plunkard is on disability due to her Stage IV cancer diagnoses. She experiences intermittent sharp pains in her abdomen, she cannot sleep, has muscle pain and fatigue, has limited memory and no stamina.

She sought to recover \$798,214 in lost earning capacity, plus damages for past and future pain and suffering.

The defense's expert in economics testified that any lost wages Plunkard is to sustain would be nominal.

The jury found that Marks was negligent and his negligence was a factual cause of harm to Plunkard. Plunkard was determined to receive \$1,335,000.

This report is based on information that was provided by plaintiffs counsel. Defense counsel did not respond to the reporter's phone calls.