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Jury awards \$2.5M to estate of ALJ in med-mal action

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A Montgomery County jury has awarded \$2.5 million to the estate of a Washington administrative law judge who died from bacterial meningitis after she was negligently given steroids despite a high risk for infection.

The steroids, Sharon Nelson's attorneys say, further weakened her immune system that was already vulnerable due to non-Hodgkin's lymphoma and anti-cancer drugs.

"It was a bitter fight in the case about whether this woman was treated properly according to standards of care and whether she was informed of the risks," said Andrew G. Slutkin of Snyder Slutkin & Kopec, who argued the seven-day trial along with Tomeka M. Grimes. "What the jury found was negligence."

The jury gave \$1 million to the estate for Nelson's pain and suffering and another \$1.5 million to her surviving son, Nelson Abramson. After the cap on noneconomic damages, Nelson's estate and her son will recover about \$1.2 million, Slutkin said.

J. Eric Rhoades of Armstrong, Donohue, Ceppos & Vaughan in Rockville, who defended the case for Nelson's pre-paid health services plan, Kaiser Foundation Health Plan of the Mid-Atlantic States, could not be reached for comment yesterday.

Nelson was diagnosed with non-Hodgkin's lymphoma in 1995 at the age of 48. Under the direction of oncologist Stephen Staal, she began chemotherapy in early 1999 and a computed tomography (CT) scan later that year showed that her lymphoma was in remission.

In May of that year, Staal prescribed Nelson an anti-cancer drug called Rituxan. Within days she complained of a drug reaction, including tingling on the right side of her face. A few weeks later, Staal learned that Nelson was suffering from fevers up to 102 degrees and had a burning sensation in various parts of her body.

A CT scan in June again showed that Nelson was in remission. A month later Nelson went to Kaiser's emergency

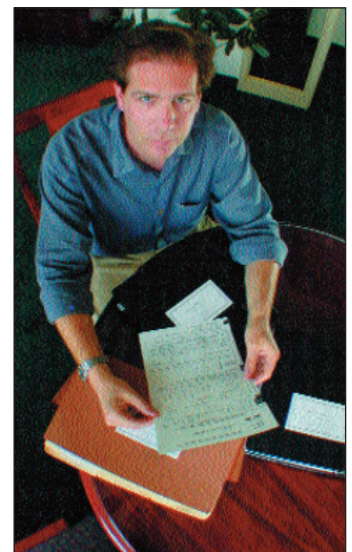
clinic complaining of a rash. David Melnick, a dermatologist, put her on the steroid prednisone.

According to the complaint, with Nelson already susceptible to an infection due to a low white blood cell count and a low neutrophil count, the doctor should not have given her steroids which further lower the body's ability to fight infection. Neutrophils, a type of white blood cell, are the body's primary defense against infection.

The complaint alleged that doctors never told Nelson of her low blood counts or the possible effects of the steroid.

"She was incredibly involved in her health care decisions," Slutkin said. "This is a woman who would have wanted to have known what her neutrophil level was, and wasn't told."

While the jury found in favor of the estate on the negligence count, it did not find in Nelson's favor on the informed consent issue. While the jury found Kaiser did not inform Nelson of all the risks, Slutkin said, it also found that a reasonable person with that information would not



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Plaintiff's attorney Andrew G. Slutkin called the case a 'bitter fight' about the proper treatment of a woman with avulnerable immune system.

have refused the treatment.

"This patient would have, but they said a reasonable patient wouldn't have," Slutkin said.

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