

PAIN, SUFFERING DAMAGES AWARDED IN MED MAL SUIT

Case: Pauline Linker, surviving spouse of Allen Linker, v. Dr. Mitchell Rosenfeld and Rosenfeld & Spitzer, M.D., P.A., Broward Circuit Court

Case No.: 00-015633

Plaintiff attorneys: David Gold and Garrett J. Biondo of Goldfarb Gold Gonzalez & Wald, Miami

Defense attorneys: Peter Restani and Lucie McAllister of Restani McAllister & Cassetty, Coral Gables

Judge: Senior Judge Eli Breger

Details: Shortly after returning from a vacation in Europe with his wife, Pauline, in August 1997, Allen Linker, 67, became ill with respiratory symptoms. The retired New York City police officer, who lived with his wife in Weston, visited his primary physician in Hallandale Beach and was given antibiotics. He was admitted to Memorial Hospital West in Pembroke Pines in October 1997 with a high fever, chills, sweats, an elevated white blood count and pneumonia, and was diagnosed with leukemia. According to Gold, the infectious disease specialist who was called in, Dr. Mitchell Rosenfeld, did not perform a special tuberculosis test called an AFB test. Nineteen months later, Linker, still experiencing symptoms after he was released, went to the M.D. Anderson Cancer Center in Houston, where he tested positive for a bacterial, TB-like infection that had spread to his blood. Doctors said it was too late to treat him and he died June 1999. In 2000, his widow filed suit against Rosenfeld as well as two other doctors at Memorial Hospital West.



David Gold represented the widow of a Weston man who died of a bacterial infection after being diagnosed with leukemia.

The plaintiff subsequently dismissed the other doctors from the lawsuit.

Plaintiff's case: The plaintiff's counsel argued that if Rosenfeld had performed an AFB test, Linker could have been treated and would not have died from the TB-like infection.

Defense case: Defense counsel argued that Linker did not have the infection in October 1997 but rather developed it in April 1999. The defense contended that the pulmonologist who saw Linker at Memorial West should have performed the AFB test, not Rosenfeld. They also asserted that Linker developed the infection because he was immunocompromised with leukemia.

Verdict: After a seven-day trial and four hours of deliberation, the jury awarded Pauline Linker \$2.15 million, all in pain and suffering damages. The defense is appealing the verdict. McAllister said Rosenfeld's medical malpractice insurer went bankrupt and that his coverage through the State of Florida Insurance Fund is limited to \$300,000.

— Julie Kay