

\$1,500,000 Recovery in Failure to Diagnose Lung Cancer Case

Cole v. Mantinaos, et al.

WAR-L-316-12

[Daryl L. Zaslow](#) of Eichen Crutchlow Zaslow LLP (Edison, Red Bank and Toms River), obtained a \$1,500,000 settlement on behalf of a 60-year-old man who died from metastatic lung cancer. At the time of his death on October 20, 2012, Plaintiff left surviving a widow and an adult son.

Plaintiff, decedent underwent a chest x-ray on March 30, 2010 for respiratory complaints. At that time he was 58 years old. The x-ray was interpreted by a radiologist as being normal. After experiencing abdominal pain, Plaintiff underwent a chest and abdominal CT on February 3, 2012. This CT revealed a mass in the middle lobe of his right lung as well as multiple masses in his liver, that were later determined to be malignancies.

Plaintiffs' experts maintained that the defendant radiologist deviated from the accepted standards of care in failing to detect and report an approximately 8 mm mass that they opined was present on the March 30, 2010 chest x-ray. Plaintiffs' experts in pulmonary care and oncology further maintained that had the mass been timely reported in March of 2010, Plaintiff would have had a resectable malignancy in his lung, as there was no evidence of metastatic disease at that time. Mr. Zaslow further argued that although they would never know for sure, since timely diagnosis was not made, had the malignancy been reported in March of 2010, Plaintiff would have most likely been diagnosed with staging as low as T1 which carries an 80% chance of cure. Unfortunately, the 23-month delay in diagnosing the cancer allowed the cancer to metastasize such that it caused Mr. Cole's death.

The defendants' experts maintained that the March 30, 2010 was entirely normal and there was absolutely no evidence of an aberrant mass or nodule. They further maintained that the Plaintiff died from metastatic liver cancer, not lung cancer and that the mass found in Plaintiff's lung in February 2012, was a metastatic secondary lesion that originated in Plaintiff's liver.

Although the complaint was filed in Warren County, the matter was transferred to Somerset County for trial purposes. With an imminent trial date scheduled, the settlement was reached following several settlement conferences before the Honorable Thomas C. Miller, P.J.Cv.