

CASE INFORMATION SHEET
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COUNTY AND COURT:

Osceola County Circuit Court

NAME OF CASE:

LINDA ROSE and
TODD ROSE, her husband,

Plaintiff,

v.

DAVID ROBINSON, M.D. and
OSCEOLA CANCER CENTER, P.A.,
a Florida Corporation,

Defendants

CASE DOCKET NO.: CI07MP2282

JUDGE: John M. Kest

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL [full names, firm and city]:

William E. Ruffier, Esq.
Dellecker, Wilson, King, et al.
Orlando, FL

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL [full names, firm and city]:

Richard S. Womble, Esq. and
Christine V. Zharova, Esq.
Rissman, Barrett, Hurt, Donahue & McLain, P.A.
Orlando, FL

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT [at time of accident or occurrence]:

Ms. Rose is a 60-year old white female employed as a teacher.

FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

Ms. Rose treated with Dr. Robinson from April 20, 2004 to June 15, 2006.

CAUSE OF INJURY: [factual description including allegations and defenses on liability]:

Ms. Rose was diagnosed with right breast carcinoma in April 2004. Her case was presented to the breast tumor board, a conference of physicians with different specialties. The board recommended neoadjuvant chemotherapy, lumpectomy and radiation.

Ms. Rose received chemotherapy prior to surgery. The plan was to reduce the size of the tumor (4 centimeters in diameter at time of diagnosis) so that breast conserving surgery (lumpectomy) could be performed.

However, at the time of the lumpectomy, it was discovered that clean margins around the tumor had not been obtained. After consultation with her physicians, Ms. Rose chose to have a modified radical mastectomy of the right breast and a prophylactic simple mastectomy of the left breast.

Following the surgery, Dr. Robinson gave additional chemotherapy to Ms. Rose. Ms. Rose experienced a severe side effect known as lymphedema. It was chronic, severe and intractable. Dr. Robinson felt that since the original plan had been to do radiation therapy following a lumpectomy and Ms. Rose had had bilateral mastectomies, radiation therapy would have no benefit. He felt, especially in light of the fact that radiation therapy would continue the severity of the problems with lymphedema, that it was reasonable and appropriate not to order the radiation therapy.

On December 9, 2005, a PET scan showed a single focus of increased activity in the axilla which was felt by the radiologist to represent inflammation.

radiation therapy. He opined that Ms. Rose is unlikely to survive the breast cancer.

DEFENDANT'S EXPERT WITNESSES [include full name, degree, specialty and city]:

Arnold Blaustein, M.D. Medical Oncologist
Miami Beach, FL

Dr. Blaustein testified that Dr. Robinson complied with the standard of care and acted reasonably and appropriately. There was a marked change in the breast tumor board's plan. The board had recommended lumpectomy. That was impossible and extensive bilateral mastectomies were performed which obviated the need for radiation.

Herceptin was not available in 2005. Herceptin has greatly improved Ms. Rose's chances of survival. He does not believe that Ms. Rose will have a cancer recurrence in the future and believes it is likely that she will survive the breast cancer.

CHECK APPROPRIATE SPACE: X Verdict

DATE OF VERDICT:

December 4, 2008

VERDICT:

Defense verdict

COMPARATIVE NEGLIGENCE [if applicable]:

Not applicable

JUDGMENT:

December 19, 2008

DATE OF JUDGMENT:

Not applicable

DEFENDANT'S OFFER:

\$200,000

PLAINTIFF'S DEMAND:

\$400,000

ATTORNEY'S COMMENTS:

The parties entered into a "High-Low" agreement. The defense agreed to pay Plaintiff \$200,000 if the verdict was less than \$200,000 or a defense verdict. Plaintiff agreed to accept \$400,000 even if the award was greater than \$400,000.

Submitted Richard S. Womble
By:

Date: January 22, 2009

Firm: Rissman, Barrett, Hurt, Donahue
 & McLain, P.A.

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