



Plumber's Family Gets \$6M Malpractice Award

Wethersfield man died after throat cancer went undiagnosed

Estate of Michael Albino, et al. v. William B. Lehmann, et al.: Semi-retired Wethersfield plumber Michael Albino's cancerous tumor of the throat was not detected in time, which led to his death and a lawsuit victory worth \$6 million.

In the course of treatment for lung problems, Albino's pulmonologist took a Positron Emission Tomography and Computerized Tomography, or PET/CT scan. The lung doctor referred Albino to ear, nose and throat doctor **William B. Lehmann** in Hartford to interpret the scan results, said plaintiff's lawyer **Joram Hirsch**, who, along with **Robert B. Adelman**, of Bridgeport's **Adelman, Hirsch & Newman**, represented the Albinos.

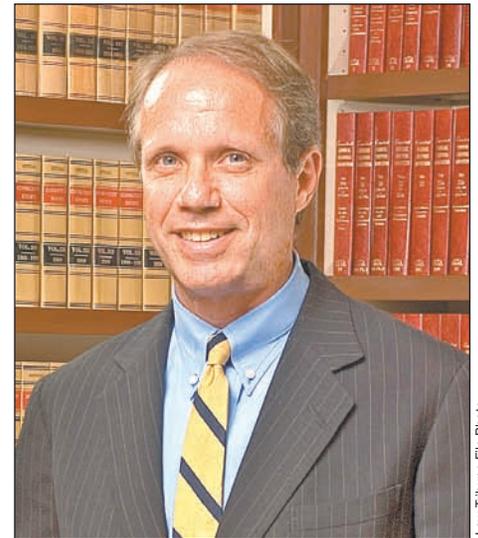
Hirsch said the PET/CT scan requires that the patient have an intravenous infusion of a sugar analog dye. The dye, containing a radio isotope, discloses where cells are most active. It highlights inflammation, infection and cancer.

Areas where cells are dividing more rapidly take up more sugar and show up as black spots on the x-ray-like scan. It is normal for the brain, heart and bladder to appear as dark black splotches. In Albino's case, there was also a small dark area on the right side of his larynx.

The plaintiffs contended Lehmann negligently failed to diagnose this spot as possibly cancerous. They also said he should have been able to detect evidence of cancer when he performed

a fiber optic probe of the patient's piriform (pear-shaped) sinus. The piriform sinus has channels which direct food and water around the larynx and into the esophagus.

The defense, conducted by **Augustus R.**



Law Tribune File Photo

Bridgeport lawyers Joram Hirsch (left) and Robert Adelman said a doctor failed to detect their client's throat cancer even after performing a PET/CT scan and a fiber optic probe.

Southworth III, of Waterbury's **Carmody & Torrance**, emphasized that saliva—channeled by the piriform sinus—is also filled with fast-reproducing cells, and typically appears as black on a PET/CT scan.

The defense also contended that Albino failed to notify the doctor he was coughing up blood, and other complications between September 2003 and October 2004. When Albino told Dr. Lehmann he had additional symptoms, Lehmann's partner diagnosed a grade four cancerous tumor—the most serious type.

The defense contended that even if the cancer had been diagnosed at the start of Lehmann's treatment, it was not curable. Alternatively, the defense maintained that even if the cancer had been stopped, Albino

had a blood disorder that was about to develop into leukemia, dramatically shortening his life expectancy.

After a 25-month battle with cancer, Albino died at age 71 in 2006.

Hirsch said Lehmann could not rule out cancer after his visual examination with the flexible fiber optic probe, and should have proceeded with more tests.

"It is very difficult to examine with a fiber optic scope because you can't get it open wide enough to see down to the apex... of the piriform sinus. [The doctor] talked about some maneuvers you can do, such as the trumpet maneuver, where back pressure is created by blowing, so you can see into the sinus. It doesn't always work."

In this particular case, exactly what Lehmann told Albino after the fiber optic examination is in dispute. "My client said he was told he didn't have cancer. The doctor

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disputes that, saying he told him there was no evidence of cancer," said Hirsch. "The important part, where we prevailed, was that there was inadequate follow-up."

Adelman and Hirsch relied on two expert witnesses; Robert Stern, a Boston ear, nose and throat specialist, and Dr. Ezra Cohen, an oncologist from the University of Chicago who discussed survival rates.

Albino experienced some gruesome complications that likely added to the non-economic damages that his family collected. He went through two bouts of chemo-

radiation therapy, and during the second, began to bleed from the mouth, and had an internal hemorrhage.

To stop the bleeding, Hirsch said doctors threaded a device through a blood vessel in Albino's thigh to close off circulation in his damaged carotid artery, near the heart. Unfortunately, this shut off blood flow to his scalp. Skin died, which forced doctors to perform skin grafts. "It required plastic surgery and was very painful," said Hirsch.

Albino's wife and three daughters testified at the trial before New Britain Superior

Court Judge **Edward S. Dombrowski**. The jury awarded \$4 million in damages to Albino and \$2 million in loss of consortium damages to his widow, who was 73 when he died.

Lehmann's practice group, Connecticut Ear, Nose and Throat associates, is a co-defendant on a theory of vicarious liability.

Southworth said he was not free to make any comment, but would be pursuing a variety of post-trial motions.

—By *Thomas B. Scheffey*