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New Milford Patient wins \$4 million verdict against local gynecologist

Nanci G. Hutson
Staff Writer, The News-Times

NEW MILFORD -- Allison Downs' grim diagnosis of ovarian cancer would have been avoided had her longtime gynecologist simply removed her ovaries during a hysterectomy five years ago.

That was the determination a six-member jury in state Superior Court in Waterbury made in a long-running malpractice lawsuit against Dr. Orlito Trias, of New Milford.

The jury awarded Downs \$4 million and her husband, Michael, \$1 million, after almost two months of testimony arguing that Trias' negligence led to Downs' terminal illness.

"If her ovaries had been removed, she would never have had ovarian cancer," said Downs' attorney, **Peter Dreyer** of Stamford, about what his physician experts testified to during the trial, which started March 23 and concluded Wednesday.

"In this case, if the relationship between her family history of breast cancer and ovarian cancer had been made, maybe this would have never happened," Dreyer said.

Because Downs' mother and grandmother both died of breast cancer, she chose to have a preventative double mastectomy while in her 20s. Her hysterectomy, in June 2005 in New Milford Hospital, was done because she had uterine fibroids. The procedure could have, but did not, include removal of her ovaries.

The following July, when Downs developed abdominal pain, she visited Dr. Trias, who found nothing wrong. She was diagnosed in August 2006 with ovarian cancer after a physician's assistant at another practice ordered a CAT scan.

During a lunch break Friday, Downs -- a 51-year-old assistant bank manager at Union Savings Bank in New Milford who has two adult children, Alan and Allison -- said she now feels vindicated.

From the beginning of this case, she has wanted somebody to compel Trias "to say he was wrong, to say he made a mistake" -- someone to say "This shouldn't have happened to you."

"I had some fantastic jurors," Downs said after the verdict, "and that's exactly what they did."

The case is likely not over. Since the lawsuit was filed three years ago, some 270 motions have been made. In 2009, the Downs offered to settle the case for \$1 million, but the offer was rejected.

Dreyer said he expects Trias will appeal.

Trias' attorney, Madonna Sacco of Bridgeport, said Friday afternoon she could not comment on the case because it remains pending. New Milford Hospital was not named in the case, so its officials had no comment on the verdict.

Downs is now suffering the third recurrence of uterine cancer and said she is unlikely to see any of the money the jury awarded her. But she hopes the verdict will spare other patients and offer her family financial security.

Downs is being treated at Yale-New Haven Hospital.

"It's been hard," Downs said about her ordeal. "I certainly didn't expect it and obviously didn't want it."

From the start, Dreyer said, he thought this was going to be a tough case, pitting doctor against patient.

Beyond its compelling medical testimony, Dreyer said the case illuminated that the illness was destroying a special love affair.

Michael Downs' mother, Donna, testified the couple "are like a hand and a glove," Dreyer said. "They just fit together," she testified. "They spend every minute they can with each other."

To know their marriage could be cut short because of a medical mistake "is the ultimate tragedy," Dreyer said.

When Downs first came to him, she was undergoing chemotherapy, had lost her hair and eyebrows, and was facing a "very difficult road ahead," Dreyer said. "From an attorney's point of view, this was a difficult case, but an extremely rewarding one."

Downs said she is now more determined than ever to beat the odds of survival:

"I still have a lot of spirit left in me. I'm not going to let this do me in. As long as I can fight it, I'm going to fight it."