

Radiological

\$75,000 VERDICT - MEDICAL MALPRACTICE - NEGLIGENT INFORMING OF PLAINTIFF THAT HE WAS SUFFERING FROM CANCER - EMOTIONAL DISTRESS AND MENTAL ANQUISH - UNNECESSARY NEEDLE BIOPSY.

New York County

The 70-year-old male plaintiff contended that he was incorrectly informed that he was suffering from cancer subsequent to a blood test indicating elevated acid phosphates. The plaintiff had entered the defendant hospital for a routine prostatectomy and that the blood test was administered as part of the admission procedure. The plaintiff contended that he suffered emotional distress and believed that he was suffering from cancer for a period of 12 hours. The defendant physician ordered another blood test and needle biopsy, which were negative. The plaintiff argued that it was negligent of the defendant physician to inform him that he was suffering from cancer without first performing follow-up tests for confirmation. The plaintiff further asserted that the needle biopsy proce-

dure was unnecessary and that only a subsequent blood test was required. The plaintiff asserted that the defendant hospital was negligent in the taking of the test. This defendant settled prior to trial. The plaintiff's expert hematologist asserted that the defendants deviated from accepted practice and procedure in informing a patient that he had cancer on the basis of one blood test. The defendant physician asserted that he did not inform the plaintiff that he had cancer, but that he only informed the plaintiff that cancer was a possibility. The defendant physician further asserted that the defendant hospital negligently administered the blood test. The defendant's expert urologist asserted that the defendant physician appropriately relied on the initial test. This expert further asserted that a needle biopsy is a necessary diagnostic procedure for confirmation of an initial diagnosis. The jury found for the plaintiff and awarded \$75,000 for pain and suffering up to the time of verdict. There was no award for future pain and suffering. Silber vs. New York University Hospital and Tessler, M.D. Judge Herbert Cahn, 6-1-90. Attorney for plaintiff: Harry Katz in Manhattan; Attorney for defendant physician: Anthony Bianchi in Manhattan.