

JUSTICE JOSEPH J. MALTESE
Supreme Court of the State of New York
Richmond County DCM Part 3
DATE: March 26, 2012
Index No.: 101545/09

DIANE ABBATANTUONO and
FRANK ABBATANTUONO,

Plaintiffs,

-against-

SUSAN K. BOOLBOL, M.D. and
BETH ISRAEL MEDICAL CENTER,

Defendants.

Question 1A. Did the defendant Susan K. Boolbol, M.D. depart from good and accepted medical practice by not removing plaintiff Diane Abbatantuono's lymph nodes during the April 20, 2007 mastectomy?

Yes ___ No X

At least five jurors must agree to the answer.

All 6 of us agreed: X

5 out of 6 agreed: _____

Dissenter's Name: _____

If your answer to this Question is YES, proceed to Question 1B.

If your answer is this Question is NO, proceed to Question 2A.

Question 1B. Was that deviation a substantial factor in causing harm to Diane Abbatantuono?

Yes ___ No ___

At least five jurors must agree to the answer.

All 6 of us agreed: _____

5 out of 6 agreed: _____

Dissenter's Name: _____

Proceed to Question 2A.

Question 2A. Did the defendant, Susan K. Boolbol, M.D. deviate from good and accepted practice by not informing Diane Abbatantuono that her lymph nodes were suspicious for cancer based upon the March 27, 2007 PET/CT scan?

Yes _____ No X

At least five jurors must agree to the answer.

All 6 of us agreed: X

5 out of 6 agreed: _____

Dissenter's Name: _____

If your answer to this Question is YES, proceed to Question 2B.

If your answer to this Question is NO, proceed to Question 3A.

Question 2B. Was that deviation a substantial factor in causing harm to Diane Abbatantuono?

Yes _____ No _____

At least five jurors must agree to the answer.

All 6 of us agreed: _____

5 out of 6 agreed: _____

Dissenter's Name: _____

Proceed to Question 3A.

Question 3A. Did Susan K. Boolbol, M.D. deviate from good and accepted medical practice by not informing the patient that she needed chemotherapy?

Yes No

At least five jurors must agree to the answer.

All 6 of us agreed:

5 out of 6 agreed: _____

Dissenter's Name: _____

If your answer to this Question is YES, proceed to Question 3B.

If your answer to this Question is NO, proceed to Question 4A.

Question 3B. Was that deviation a substantial factor in causing harm to Diane Abbatantuono?

Yes No

At least five jurors must agree to the answer.

All 6 of us agreed:

5 out of 6 agreed: _____

Dissenter's Name: _____

Proceed to Question 5A.

Question 4A. Did the defendant, Susan K. Boolbol, M.D. deviate from accepted medical practice by not properly following up and coordinating the care of Diane Abbatantuono to ensure that she received chemotherapy after May 1, 2007?

Yes No

At least five jurors must agree to the answer.

All 6 of us agreed:

5 out of 6 agreed: _____

Dissenter's Name: _____

If your answer to this Question is YES, proceed to Question 4B.

If your answer to this Question is NO, proceed to Question 5A.

Question 4B. Was that deviation a substantial factor in causing harm to Diane Abbatantuono?

Yes No

At least five jurors must agree to the answer.

All 6 of us agreed:

5 out of 6 agreed: _____

Dissenter's Name: _____

Proceed to Question 5A.

Question 5A. Was it a deviation from good an accepted medical practice for Susan K. Boolbol, M.D. not to speak to Dr. Malamud, the medical oncologist, about Diane Abbatantuono's medical condition between May 2007 and August 2007?

Yes No

At least five jurors must agree to the answer.

All 6 of us agreed:

5 out of 6 agreed: _____

Dissenter's Name: _____

If your answer to this Question is YES, proceed to Question 5B.

If your answer is this Question is NO, proceed to the "Special Instructions" on the following page.

Question 5B. Was that deviation a substantial factor in causing harm to Diane Abbatantuono?

Yes No

At least five jurors must agree to the answer.

All 6 of us agreed:

5 out of 6 agreed: _____

Dissenter's Name: _____

Proceed to "Special Instructions" on the following page.

Special Instruction

If you answered "YES" for any one or more questions 1B, 2B, 3B, 4B or 5B; proceed to Question 6.

If you answered "NO" to either or both parts "A" and "B" of for all of the questions numbered 1, 2, 3,4 and 5 proceed no further, sign the last page and inform the officer that you have reached a verdict.

Question 6A. Did the plaintiff, Diane Abbatantuono bear any responsibility for the delay in starting chemotherapy?

Yes No

At least five jurors must agree to the answer.

All 6 of us agreed:

5 out of 6 agreed: _____

Dissenter's Name: _____

If your answer to this Question is YES, proceed to Question 6B.

If your answer to this Question is NO, proceed to Question 8.

Question 6B. Was that a substantial factor in causing harm to Diane Abbatantuono?

Yes No

At least five jurors must agree to the answer.

All 6 of us agreed:

5 out of 6 agreed: _____

Dissenter's Name: _____

If your answer to this Question is YES, proceed to Question 7.

If your answer to this Question is NO, proceed to Question 8.

Question 7. What was the percentage of fault, of Susan K. Boolbol, M.D. and Diane Abbatantuono?

Susan K. Boolbol, M.D. _____

Diane Abbatantuono _____

TOTAL MUST BE: 100%

At least five jurors must agree to the answer.

All 6 of us agreed: _____

5 out of 6 agreed: _____

Dissenter's Name: _____

Proceed to Question 8.

Question 8. State the amount of damages, if any, awarded to the plaintiff for past pain and suffering and loss of enjoyment of life experienced by the plaintiff, Diane Abbatantuono from May 1, 2007 until today?

If you decide to make no award write in the word "NONE" below.

\$ 500,000⁰⁰/_{XX}

At least five jurors must agree to the answer.

All 6 of us agreed: _____

5 out of 6 agreed: X

Dissenter's Name: Mitchel Schonholz

Proceed to Question 9.

Question 9. State the amount awarded, if any, to the plaintiff, Diane Abbatantuono for future pain and suffering and loss of enjoyment of life and state over what period of time your award is to apply

If you decide not to make an award, write in the word "NONE" below.

\$ Ø For _____ Years

At least five jurors must agree to the answer.

All 6 of us agreed: X

5 out of 6 agreed: _____

Dissenter's Name: _____

Proceed to Question 10.

Question 10. What amount of damage, if any, do you award to the plaintiff, Frank Abbatantuono, for each of the following:

Loss of consortium from 2007 to the present \$ 0

Future loss of consortium \$ _____ For _____ Years

At least five jurors must agree to the answer.

All 6 of us agreed: X

5 out of 6 agreed: _____

Dissenter's Name: _____

Please sign the last page and inform the court officer that you have reached a verdict.

We, the undersigned jurors, duly drawn, impaneled and sworn to try the above entitled action, say that we have rendered a verdict in accordance with the answers to the preceding questions.

Juror/Signature

1. /s/

2. /s/

3. /s/

4. /s/

5. /s/

6. /s/