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Mr. William D. Bonezzi
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Attorneys at Law
100 Erieview Plaza
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RE: Scott Fleischer

Dear Mr. Bonezzi:

I have reviewed all the materials provided to me concerning the treatment of Mr. Scott Feischer from June 26, 1985 through January of 1986.

Mr. Fleischer was 26 when he presented to the Clifton Urgent Care Center on July 26, 1985, with a fever to 101.9, chills, a productive cough, and sore throat which had been present for several weeks. Examination revealed an enlarged right cervical node approximately 1 x 1 cm. in the area of the sternocleidomastoid muscle. Monospot and strep tests were negative. A chest x-ray showed a right middle lobe infiltrate. A diagnosis of bronchitis was made by Dr. Palo and the patient was discharged on Erythromycin and a decongestant, with instructions to follow up with Dr. Ocainpo. The patient did not follow up with Dr. **Ocampo,** but returned to the Urgent Care Center on June 29, complaining of upset stomach and diarrhea which was attributed to the Erythromycin. The antibiotic was changed to Bactrim and he was again discharged with instructions to follow up with another internist which he again failed to do. Mr. Fleisher was seen again by Dr. Palo on July 9, 1985, with a history of having stopped taking his antibiotics on July 2. He complained of fever to 102 degrees with generalized malaise. At this time, no note was made of lymphadenopathy and the lungs were clear. White count was 4.2 thousand and the hemoglobin was normal. A monospot and strep tests were again repeated and were negative. Chest r-ray was unchanged from June 26, 1985, again revealing a right middle lobe infiltrate. The patient was discharged with a diagnosis of viral pneumonia on Tetracycline and instructed to follow up with an internist, Dr. Presswala, which he again failed to do.

Mr. Fleischer reappeared at the Urgent Care Center on July 20, complaining of fever and recurrence of cough. At this time, there was no adenopathy noted and the lungs were clear, The patient was given Lincocin and admitted to St. John's Hospital under the care of Dr. Mathew. On admission to St. John's, a mass was noted on the right side of the neck. The patient was again treated with antibiotics and discharged. When his fever recurred, he was referred to an infectious disease consultant, Dr. GOPAL , who initially entertained a diagnosis of infectious mononucleosis based on lymphadenopathy, splenomegaly and markedly increased titers to Epstein-Barr virus. He later admitted the patient to Fairview General for work-up which revealed stage IV Hodgkin's disease.

There are several key questions to be answered:

1. Did Dr. Palo in any way deliver substandard care?

   The only allowable answer is no. Dr. Palo conscientiously fulfilled his role as an emergency room physician by making a provisional diagnosis based on the available information, initiating treatment, and appropriately referring the patient to an internist for follow up and further diagnostic tests as needed. The patient, Mr. Fleischer, failed in his responsibility to follow the instructions given for appropriate follow up care.

2. Was there a change in the pathologic stage of Mr Fleischer's Hodgkin's disease from July to October, 1985?

   In October of 1985, we have the benefit of bone marrow biopsy and C.T. scan, as well as exam to define the extent of disease. In July of 1985, we can only guess at a clinical stage based on an emergency room physical examination, chest x-ray, and systemic symptoms of fever. Based on these considerations, the disease may have been a II EB, if we assume the infiitrate on the chest x-ray was Hodgkin's disease. It is pure conjecture to assume that a bone marrow done in July would have been negative. Indeed, based on the existence of systemic symptoms at presentation which often signifies occult stage IV disease, it is just as likely that the patient was stage IV at presentation. An overlooked detail which indicates no significant change in stage between July and October is the absence of significant weight loss during that time.

3. Even assuming a change in stage from II EB to IV B between July and October, would the intensity of therapy have changed?

The answer to this question is emphatically no. Very few oncologists would have chosen radiotherapy for II EB disease. The overwhelming majority would start with chemotherapy. There is no evidence from the literature to suggest that the chemotherapy intensity or drugs for II EB disease should be different from that of IV B. However, we must remember that most probably we were dealing with stage IV disease back in July of 1985.

Based on the above considerations, I present the following conclusions:

1. Dr. Palo delivered care which was perfectly consistent with current accepted medical standards.

2. There is no conclusive evidence of a change in the stage of Mr. Fleischer's disease between June 26, 1985, and October, 1985.

3. There is no scientific evidence to show that a delay in the diagnosis of Mr. Fleischer's Hodgkin's disease between July and October of 1985 would have any appreciable impact on the response to chemotherapy or the prognosis for survival.

Please contact me if I can be of any further assistance.

Sincerely,

Elliot Dickman, M. D., Ph.D.

ED/vlg