

Cook County & Illinois  
**JURY VERDICT REPORTER**

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**MED. MAL.--DELAYED CANCER DIAGNOSIS YIELDS 2ND HIGHEST DEKALB VERDICT**

(07 Au/8) *David Kordek, Marcia Kordek v Dr. Vijay Marwaha* 04L-63 Tried: Aug. 13-21, 2007 (12C)

Verdict: \$1,596,873: \$1,523,226 to David Kordek (\$585,726 future lost income; \$100,000 disfigurement; \$100,000 past and future disability; \$737,500 past and future pain & suffering); \$73,647 to Marcia Kordek (all for loss of household services)

Judge: Kurt P. Klein (IL, De Kalb 16th Jud Cir)

Pltf Atty: Martin A. Dolan of *Dolan Law Offices* for both pltf's Demand: \$3,000,000 Asked: \$7,000,000

Deft Attys: Louis A. Varchetto and Marcelline DeFalco of *Mulherin, Rehfeldt* (Wheaton) (ISMIE) Offer: none

Pltf Medl: Dr. Kaushik Patel (Oncologist) and Dr. Douglas Roegner (Urologist) for David

Deft Medl: Dr. Daniel Swift (Urologist)

Pltf Experts: Dr. Michael Baldinger (Internist), Dr. Carl Blond, 2391 N.E. Loop 410, Suite 405, San Antonio, TX (210-654-7326) (Nephrologist), Dr. Robert Kaplinsky, 7900 N. Milwaukee Ave., Suite 17, Niles, IL (847-470-1500) (Urologist) and Stanley V. Smith, Ph.D. (Economist) for David

Deft Experts: Dr. Michael F. DuPont (Family Practice) and Dr. Jerome Hoeksema (Urologist)

From June 2, 2003 to November 3, 2003, pltf M-41 sought treatment from deft, a general practitioner in Hinckley, IL, for complaints of urinary frequency. At his first visit, urinalysis disclosed an elevated white blood cell count and his blood pressure was 200/100; Dr. Marwaha diagnosed a urinary tract infection (UTI) and hypertension. Over the next 6 weeks, pltf saw deft twice more and faxed him a letter stating his symptoms were not going away, even after antibiotics were prescribed. The deft continued to diagnose UTI and did not order any diagnostic tests. On September 6, 2003, when pltf presented with continued symptoms, a blood test was ordered for the first time by deft and revealed an elevated creatinine level, indicative of renal failure. Dr. Marwaha continued to prescribe antibiotics and, without performing a rectal exam or any other tests, diagnosed an enlarged prostate. Two weeks later, he changed the antibiotic prescription. On October 4, pltf returned with continuing symptoms but deft failed to order blood and/or other diagnostic tests or refer pltf to a specialist until October 31 when he again presented with complaints of pain while urinating and urinary frequency. Those tests showed a creatinine level of 18.1, indicating acute renal failure. Within a few days, pltf was also diagnosed with a Stage IV bladder tumor, necessitating bladder removal in December 2003 and chemotherapy which had to be halted due to kidney damage. In July 2007, cancer was found in his lungs. Pltf claimed that, had deft performed blood tests in June 2003, the cancer would have been discovered; the delay in diagnosis severely limited his treatment options; and his life expectancy was reduced by at least 50 per cent (\$700,000 to \$1,500,000 lost future earnings as logistics manager for R.R. Donnelly, depending on age at which death occurred). The defense contended the lack of blood in pltf's urine was an atypical presentation of bladder cancer, pltf's urinary complaints went away with antibiotic treatment, the patient was immediately referred to a urologist when the September 6 lab results indicated renal failure, he failed to follow deft's advice, the cancer was already lymph positive and muscle invasive by the time the pltf first saw Dr. Marwaha, and nothing the deft did or failed to do would have changed the outcome. The jury deliberated for approximately 2 days before rendering its verdict which is the second largest medical malpractice verdict and third largest overall verdict in DeKalb County reported by Jury Verdict Reporter. Defense counsel reported the case has now settled for deft's \$1,000,000 insurance policy limits.