

http://www.thehour.com/news/stamford/courts/pre-gay-marriage-rights-affirmedby-conn-high-court/article_5f356ed0-48cf-5e0c-9000-0cee2b7798c5.html

Pre-gay marriage rights affirmed by Conn. high court

Posted: Thursday, July 17, 2014 10:06 am

By JEFF DALE and STEVE KOBAK

HARTFORD -- Lawyers said Wednesday the Connecticut Supreme Court has issued a first-of-its-kind ruling in the country saying some legal rights of same-sex couples predate the state's 2008 approval of gay marriage.

The high court overturned two lower courts and ruled a widow from Middletown, formerly of Norwalk, can sue a doctor for damages in a medical malpractice case for the loss of her spouse's companionship and income. Charlotte Stacey and the late Margaret Mueller sued Stamford Hospital doctors' Iris Wertheim and Isodore Tepler because the doctors treated Mueller for ovarian cancer during a four-year period when she actually had another form of cancer. Mueller succumbed to cancer in January 2009 at the age of 62. A jury originally awarded a \$2.45 million judgment in 2010 to Stacey.

The ruling, handed down by Chief Justice Chase T. Rogers, stated: "We agree with Stacey's claim that this court should expand the common-law claim for loss of consortium to members of couples who were not married when the tortious conduct occurred, but who would have been married if the marriage had not been barred by state law."

Mueller's battle with cancer began in August 2001 when she visited Wertheim because she was experiencing pain in her side. An MRI revealed that Mueller had cancer.

Wertheim operated on Mueller in October 2001, performing a hysterectomy and removing several cancerous tumors from Mueller's body as well as her appendix.

A pathologist studied the tumors and diagnosed Mueller with PMP, a form of cancer of the appendix.

However, Wertheim concluded that Mueller had ovarian cancer and referred Mueller to Tepler, who is an oncologist, for treatment. Mueller underwent chemotherapy for ovarian cancer and in March 2002, Tepler said she was cancer free.

Mueller still visited Tepler for follow-up exams and in October 2003, Tepler told Mueller that she had extensive cancer.

Although she underwent nine forms of chemotherapy from October 2003 to February 2005, Mueller's cancer spread.

In April 2005, Mueller consulted another doctor and found out she was misdiagnosed, according to the lawsuit. Mueller underwent a 12-hour surgery, and a section of her intestines and her colon had to be removed, requiring her to wear a colostomy bag.

Michael Koskoff, senior partner at Koskoff, Koskoff & Bieder, the law firm that represented Stacey, said the court's decision was based on the fact that Stacey and Mueller were a devoted couple of 23 years.

"This was a devoted couple who if could of legally married would have," Koskoff said.

The Associated Press contributed to this report.