

Same-sex marriage clouds \$2.4M malpractice award

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A [Superior Court](#) jury Friday awarded \$2.45 million to the estate of a Norwalk woman whose lawyer claimed she was treated for the wrong kind of cancer.

The six-member jury in Stamford Superior Court deliberated about two and one-half days before announcing the verdict on behalf of [Margaret Mueller](#) and against Stamford gynecologist [Iris Wertheim](#).

Mueller, 62, died last January and although she was legally married to her lesbian partner, [Charlotte Stacey](#), at the time of her death, the case must still wind through probate court to determine whether Stacey can collect any of the verdict.

Mueller's lawyer, [Joshua Koskoff](#), of Bridgeport, said a judge had previously ruled Stacey could not be a plaintiff in the case, even though she claimed she suffered emotionally from her partner's medical plight, because the state didn't make their relationship legal until after the alleged malpractice.

The state's civil union law was passed in 2005, and in 2008 the state [Supreme Court](#) ruled that same-sex couples have the right to wed in the state.

Stacey called the earlier ruling excluding her from the case unfair. "I don't think it's right; we were together the entire time. We were a complete couple in every sense of the word."

Wertheim's attorney, [Eric Stockman](#), said he would appeal the jury's verdict. "I think the evidence established that Dr. Wertheim, who cared a great deal for this patient, acted thoroughly and reasonably under the circumstances.

"I'm disappointed with the jury's verdict, which I think was against the weight of the evidence," Stockman said.

According to Koskoff, in 2001 Mueller, who worked in the insurance industry, was diagnosed with PMP, a cancer that strikes the appendix. But, he said, [Mueller's](#) gynecologist, Wertheim, incorrectly referred Mueller to an oncologist, Dr. [Isidore Tepler](#), for treatment of ovarian cancer.

Koskoff said Mueller underwent extensive chemotherapy for ovarian cancer while her other cancer was spreading through her body. In 2002 he said Tepler declared Mueller to be cancer free even though she continued to suffer pain in her side.

In 2005 Koskoff said Mueller went to another doctor who determined she had been undergoing treatment for the wrong cancer. As a result, he said she was in an advanced stage of PMP cancer and had to undergo surgery for the removal of much of her intestines, including her colon.

"She had three and one-half years of chemotherapy for a cancer she didn't have and during that time her actual disease was able to progress," Koskoff said. "She probably would have survived if she had gotten the treatment she needed."

The women said virtually every aspect of their lives was changed by the ordeal. Mueller was no longer able to climb the 27 stairs at her condominium in Stamford, so the couple moved to Norwalk and Stacey spent four hours per day commuting to and from her insurance job in New York.

Stacey recalled the couple's many sleepless nights, sudden trips to the hospital and endless injections to treat the cancer.

Mueller had to use a colostomy bag and could no longer perform simple chores like mowing the lawn and housekeeping and had trouble singing in a church choir, a passion that brought the couple together in the first place.

Koskoff said they previously reached a settlement with Tepler but couldn't disclose the details.

"I'm very glad that justice was finally done," Stacey said. "We both wanted justice done."