

Suspected cancer: recognition and referral

CASE LAW

Speakers:



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Introduction



*Dalton v Southend University
Hospital NHS Foundation Trust*
[2019] EWHC 832 (QB)

Dalton v Southend University Hospital NHS Foundation Trust [2019] EWHC 832 (QB)

- Delayed diagnosis of breast cancer

Timeline

February 2011	C noticed lump	GP referred to D's breast clinic
March 2011	Examination by Miss Gray	Discharged and reassured
November 2013	C noticed further changes	GP referred back to breast clinic
	Examination	Large Grade II ductal carcinoma diagnosed

ISSUES

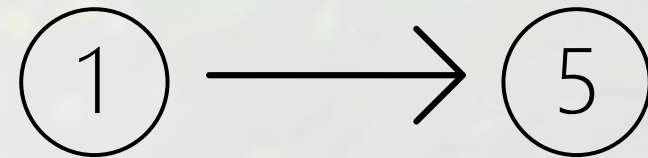
- Breach of duty
- Causation
- (Contributory Negligence)

Breach of Duty

CLAIMANT	DEFENDANT
March 2011 Guidelines – biopsy mandated Would have detected carcinoma	March 2011 Guidelines - biopsy not mandated Would not have detected carcinoma

BREACH OF DUTY

- Bolam / Bolitho principles
 - *“no responsible breast surgeon would have failed to undertake a core biopsy at the appointment in March 2011”*
- Guidelines
 - Best Practice Diagnostic Guidelines for patients presenting with breast symptoms – November 2010
 - Multidisciplinary Triple Diagnostic Method
 - Clinical assessment
 - Imaging assessment
 - Needle Biopsy



EXPERT EVIDENCE

- C
 - **Professor Fentiman**
 - *“If there is any doubt about the nature of the lesion or discrepancy between the clinical and imaging features, needle biopsy should be performed”*
 - Discordance
 - Apply common sense
- D
 - **Mr Wishart**
 - No suspicious features
 - Guidelines followed

JUDGMENT

“I am not persuaded that all responsible breast surgeons would have performed a biopsy in those circumstances”

TAKEAWAY POINTS

- **Medical records**
 - *“necessary substantive information”*
- **Guidelines**
 - Literal interpretation, whether incapable of withstanding logical analysis
- **Experts**
 - *“experience of working in the Cambridge unit alongside the lead author of the guidelines and his detailed knowledge of the research that underpinned them is also relevant”*
- **Contributory Negligence**
 - *“I consider that the circumstances in which a finding of contributory negligence can properly be made in a clinical negligence claim will be rare...I am not entirely sure there was a sufficient evidential basis for it to be made”*



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My Credentials

I am Dr. Jonathan Howard Lieberman, of St. Gabriel's Medical Centre, 4 Bishops Road, Prestwich, M25 0H.

I qualified from The Royal Free Hospital School of Medicine (University of London) with M.B., B.S.in 1982.

I attained M.R.C.G.P. in 1987 and completed a full vocational training programme in General Practice.

I was appointed a full time Principal in General Practice in 1987.

I was Joint Senior Partner from 1994 onwards.

I was Diabetic LEAD from 1996 – 2013.

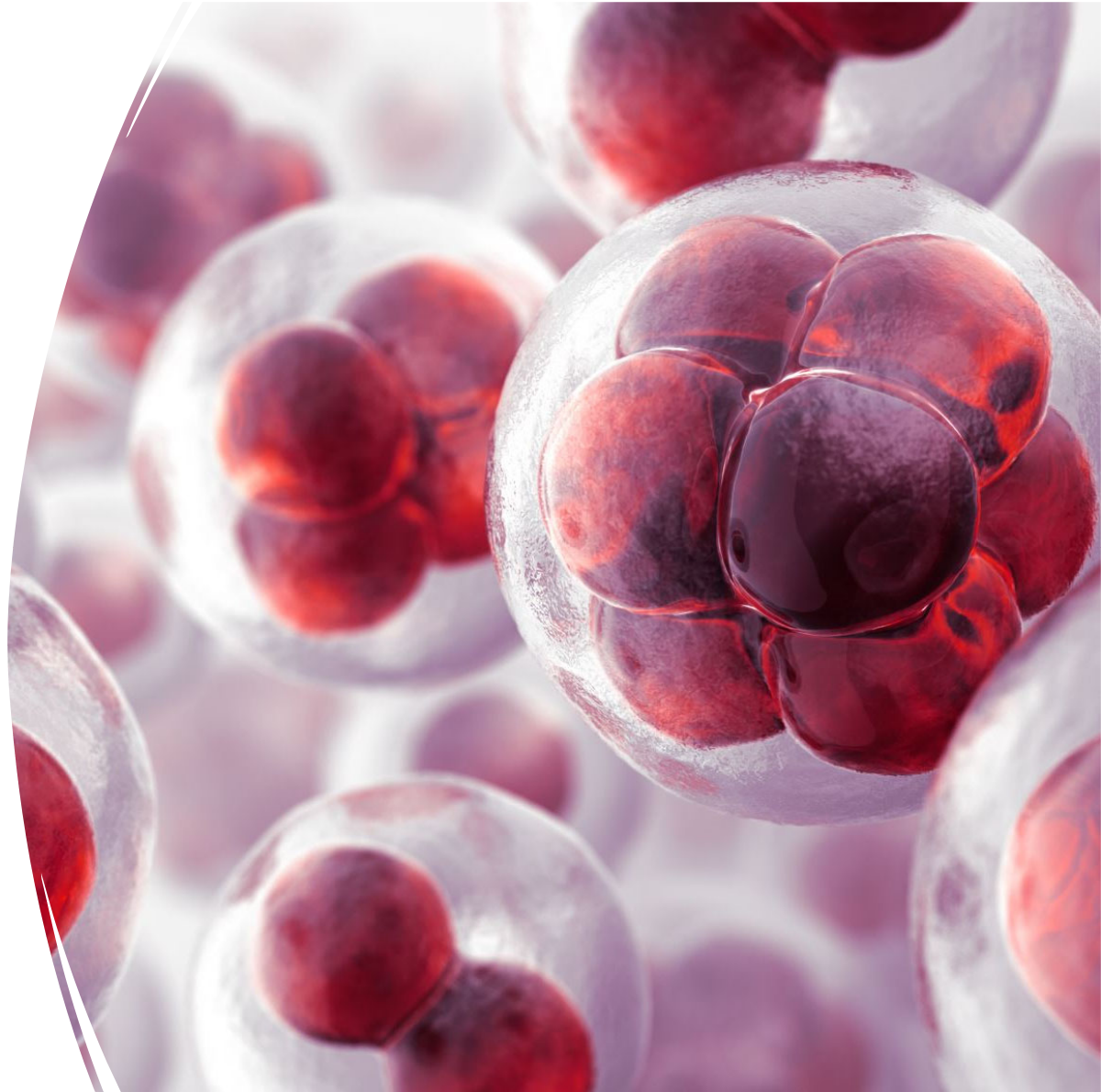
I have been advising in Medico-legal matters since 1993.

I have produced more than 35,000 personal Injury Reports and over 5,000 Clinical Negligence advice reports.

I have lectured widely on both Medical Ethical issues and at Clinical Negligence courses and Seminars.

- League Table of Missed Cancers in General Practice

- Colorectal
- Skin
- Bladder
- Breast
- Uterine



Colorectal Cancer: Symptoms

- Symptoms of bowel cancer may include:
- changes in your poo, such as having softer poo, diarrhoea or constipation that is not usual for you
- needing to poo more or less often than usual for you
- blood in your poo, which may look red or black
- bleeding from your bottom
- often feeling like you need to poo, even if you've just been to the toilet
- tummy pain
- bloating
- losing weight without trying
- feeling very tired for no reason



Colorectal Cancer

NICE Guideline NG12

Colorectal cancer

1.3.1 Refer adults using a [suspected cancer pathway referral](#) (for an appointment within 2 weeks) for colorectal cancer if:

- they are aged 40 and over with [unexplained](#) weight loss and abdominal pain **or** they are aged 50 and over with unexplained rectal bleeding **or**
- they are aged 60 and over with: iron-deficiency anaemia **or**
- changes in their bowel habit, **or**
-
- tests show occult blood in their faeces. **[new 2015]**



Colorectal Cancer

NICE Guideline NG12

- - 1.3.2 Consider a suspected cancer pathway referral (for an appointment within
- 2 weeks) for colorectal cancer in adults with a rectal or abdominal mass. **[new 2015]**
- - 1.3.3 Consider a suspected cancer pathway referral (for an appointment within
- 2 weeks) for colorectal cancer in adults aged under 50 with rectal bleeding **and** any of the following unexplained symptoms or findings:
- - abdominal pain
 - change in bowel habit
 - weight loss
 - iron-deficiency anaemia. **[new 2015]**



Check List For Melanoma

- **A is for Asymmetry.** Most melanomas are asymmetrical. If you draw a line through the middle of the lesion, the two halves don't match, so it looks different from a round to oval and symmetrical common mole.
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- **B is for Border.** Melanoma borders tend to be uneven and may have scalloped or notched edges, while common moles tend to have smoother, more even borders.
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- **C is for Colour.** Multiple colours are a warning sign. While benign moles are usually a single shade of brown, a melanoma may have different shades of brown, tan or black. As it grows, the colours red, white or blue may also appear.
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- **D is for Diameter or Dark.** While it's ideal to detect a melanoma when it is small, it's a warning sign if a lesion is the size of a pencil eraser (about 6 mm, or ¼ inch in diameter) or larger. Some experts say it is also important to look for any lesion, no matter what size, that is darker than others. Rare, [amelanotic melanomas](#) are colourless.
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- **E is for Evolving.** Any change in size, shape, colour or elevation of a spot on your skin, or any new symptom in it, such as bleeding, itching or crusting, may be a warning sign of melanoma.

NICE Guideline NG12 Skin Cancer

- **When should I refer a person with suspected malignant melanoma of the skin?**
- **Refer people using a suspected cancer pathway referral** (for an appointment within 2 weeks) for melanoma if they have a suspicious pigmented skin lesion with a weighted 7-point checklist score of 3 or more (new NICE recommendation for 2015).
- Weighted 7-point checklist:
 - Major features of the lesions (scoring 2 points each):
 - Change in size
 - Irregular shape
 - Irregular colour.
 - Minor features of the lesions (scoring 1 point each):
 - Largest diameter 7 mm or more
 - Inflammation
 - Oozing
 - Change in sensation
- **Refer people using a suspected cancer pathway referral** (for an appointment within 2 weeks) if dermoscopy suggests melanoma of the skin (new NICE recommendation for 2015).
- **Consider a suspected cancer pathway referral** (for an appointment within 2 weeks) for melanoma in people with a pigmented or non-pigmented skin lesion that suggests nodular melanoma (new NICE recommendation for 2015).

Bladder Cancer: Symptoms

- The medical name for blood in the urine is haematuria and it's usually painless. There may be streaks of blood in the urine or the blood may turn the urine brown. The blood isn't always noticeable and it may come and go.
- Less common symptoms of bladder cancer include:
 - a need to urinate on a more frequent basis
 - sudden urges to urinate
 - a burning sensation when passing urine
- If bladder cancer reaches an advanced stage and has spread, symptoms can include:
 - pelvic pain
 - bone pain
 - unintentional weight loss
 - swelling of the legs

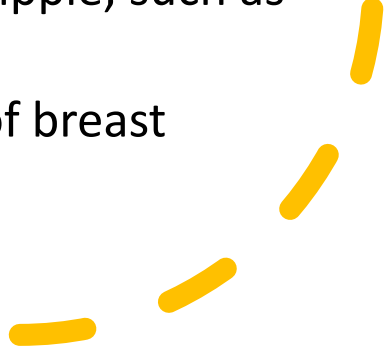


NICE Guideline NG12 Bladder Cancer

- 1.6.2 Refer people using a suspected cancer pathway referral (for an appointment
- within 2 weeks) for bladder cancer if they are:
 - aged 45 and over and have:
 - unexplained visible haematuria without urinary tract infection or
 - visible haematuria that persists or recurs after successful treatment of urinary tract infection, or
 - aged 60 and over and have unexplained non-visible haematuria and either dysuria or a raised white cell count on a blood test. [2015]
- 1.6.3 Consider non-urgent referral for bladder cancer in people aged 60 and over with recurrent or persistent unexplained urinary tract infection. [2015]



Breast Cancer : Symptoms

- a new lump or area of thickened tissue in either breast that was not there before
 - a change in the size or shape of one or both breasts
 - a [discharge of fluid from either of your nipples](#)
 - a lump or swelling in either of your armpits
 - a change in the look or feel of your skin, such as puckering or dimpling, a rash or redness
 - a rash (like eczema), crusting, scaly or itchy skin or redness on or around your nipple
 - a change in the appearance of your nipple, such as becoming sunken into your breast
 - Breast pain is not usually a symptom of breast cancer.
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NICE Guideline NG12 Breast Cancer

- **1.4 Breast cancer**
- 1.4.1 Refer people using a [suspected cancer pathway referral](#) (for an appointment within 2 weeks) for breast cancer if they are:
 - aged 30 and over and have an [unexplained](#) breast lump with or without pain **or**
 - aged 50 and over with any of the following symptoms in one nipple only:
 - discharge
 - retraction
 - other changes of concern. **[2015]**
 - 1.4.2 Consider a suspected cancer pathway referral (for an appointment within 2 weeks) for breast cancer in people:
 - with skin changes that suggest breast cancer **or**
 - aged 30 and over with an unexplained lump in the axilla. **[2015]**
 - 1.4.3 Consider [non-urgent](#) referral in people aged under 30 with an unexplained breast lump with or without pain. See also recommendations 1.16.2 and 1.16.3 for information about seeking specialist advice. **[2015]**

Uterine Cancer : Symptoms

- **Main symptoms of uterine (womb) cancer**
- bleeding or spotting from the vagina after the menopause
- heavy periods from your vagina that is unusual for you
- vaginal bleeding between your periods
- a change to your vaginal discharge
- Other symptoms of womb cancer can include:
- a lump or swelling in your tummy or between your hip bones (pelvis)
- pain in your lower back or between your hip bones (pelvis)
- pain during sex
- blood in your pee



NICE Guideline NG12 Uterine Cancer

- **Endometrial cancer**
- 1.5.10 Refer women using a [suspected cancer pathway referral](#) (for an appointment within 2 weeks) for endometrial cancer if they are aged 55 and over with post-menopausal bleeding (unexplained vaginal bleeding more than 12 months after menstruation has stopped because of the menopause). **[2015]**
- 1.5.11 Consider a suspected cancer pathway referral (for an appointment within 2 weeks) for endometrial cancer in women aged under 55 with post-menopausal bleeding. **[2015]**
- 1.5.12 Consider a [direct access](#) ultrasound scan to assess for endometrial cancer in women aged 55 and over with:
 - unexplained symptoms of vaginal discharge who:
 - are presenting with these symptoms for the first time **or**
 - have thrombocytosis **or**
 - report haematuria, **or**
 - visible haematuria **and**:
 - low haemoglobin levels **or**
 - thrombocytosis, **or**
 - high blood glucose levels. **[2015]**



Why Do GP's Miss Cancer Diagnosis?

- Fault Lines In General Practice
- Consequences of all around pressure
 - Increased number of consultations.
 - Increased amount to do in each consultations





Fault Lines In General Practice

- 'Solutions' employed by GPs (AKA – cutting corners)
 - Delegation to inadequately trained staff.
 - Nurse Practitioners
 - Practice Nurse
 - Health Care Assistant
 - Admin Staff



Fault Lines In General Practice

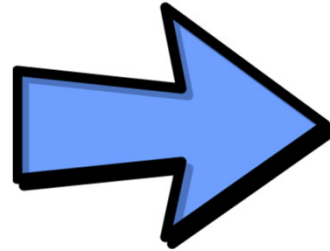
- 'Solutions' employed by GPs (AKA – cutting corners)
 - Telephone consultations.
 - Redirection of patients to other agencies (e.g. Walk-In-Centres)
 - Focused examinations (AKA – examining as little as possible)
 - Referrals to non audited departments (e.g. MSK, Physio)
 - 'Cost effective' prescribing.
 - Limited testing (e.g. bloods, scans, X-rays)

Mistakes!



- This leads to potential Breaches of Duty of Care:
 - Failure to examine.
 - Failure to follow up or safety net.
 - Failure to refer.
 - Inappropriate prescribing.
 - Failure to recognise and act upon abnormal results.
 - Failure to act on incoming correspondence.
 - Failure to review notes.
 - Inadequate medication reviews.
 - Failure to undertake home visits.

Fertile area for Lawyers



Big trouble for Doctors!

