

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR KLAMATH COUNTY

KENNETH WEEKLY,

Plaintiff,

v.

**MARK F. BRADBURY, M.D., P.C., and
MARK F. BRADBURY, M.D.,**

Defendants.

Case No.

COMPLAINT (Medical Negligence)

Prayer Amount: \$7,000,000

**CLAIM NOT SUBJECT
TO MANDATORY ARBITRATION**

JURY TRIAL REQUESTED

Plaintiff Kenneth Weekly alleges that at all times material:

1.

Defendant Mark F. Bradbury, M.D., P.C. (Defendant Corporation), was a professional corporation with Mark F. Bradbury, M.D. serving as President and Registered Agent. Defendant Mark F. Bradbury, M.D. (Defendant Bradbury) was a physician and an agent, apparent agent, or employee of Defendant Corporation, acting within the course and scope of his agency, apparent agency, or employment. Defendants were engaged in the business of providing medical treatment and services in Klamath County, Oregon. All acts and omissions of Defendant Corporation were made through agents, apparent agents, or employees, who were working within the course of such agency or employment.

2.

On May 27, 2016, Plaintiff Kenneth Weekly underwent biopsies after a colonoscopy revealed a suspicious lesion. Pathology reported findings of invasive adenocarcinoma. On June 2, Defendant Bradbury examined Mr. Weekly, including reviewing the pathology results and a CT

1 scan of Mr. Weekly's abdomen and pelvis. The radiologist's report described perirectal lymph
2 nodes and nodular wall thickening at the mid rectum, "which may reflect the site of malignancy."
3 Defendant Bradbury concluded that Mr. Weekly had invasive adenocarcinoma of his colon and
4 recommended he undergo a surgical resection.

5 3.

6 On July 5, 2016, Defendant Bradbury began performing an anterior resection and during
7 the surgery recognized that Mr. Weekly's tumor was actually deeper in the rectum than he had
8 anticipated and required a low anterior resection. Defendant Bradbury reported complications of
9 bowel perforations, stapler misfiring and need for a diverting ileostomy.

10 4.

11 While in the hospital recovering from his surgery, Mr. Weekly reported serous fluid
12 coming from his rectum and Defendant Bradbury informed him this was normal. Mr. Weekly also
13 had purulent drainage from his abdominal drains and Defendant Bradbury noted that Plaintiff
14 likely had an anastomotic leak but that it should resolve with antibiotics. Plaintiff was discharged
15 home on July 15, 2016.

16 5.

17 On August 3, 2016, Plaintiff underwent a barium enema which noted an ongoing posterior
18 anastomotic leak in the distal rectum. On August 15, 2016, a PET scan noted incidental moderate
19 left hydronephrosis concerning for distal ureteral obstruction.

20 6.

21 On September 6, 2016, Plaintiff began chemotherapy. On September 29, 2016, a
22 cystoscopy procedure was performed by a Bend urologist with findings of a transected left ureter
23 and fistulization of the left ureter to the distal sigmoid colon. A nephrostomy tube was placed into
24 Plaintiff's left kidney.

25 7.

26 In December 2016, Plaintiff's oncologist advised that due to the ureter injury and

1 subsequent infections he would not be a candidate for post-surgery radiation therapy.

2 8.

3 On February 27, 2017, Plaintiff was admitted to OHSU and underwent a redo low anterior
4 resection with repair of the ureteral injury, fistula and leaking anastomosis. A few days later,
5 Plaintiff underwent creation of a permanent colostomy.

6 9.

7 In early 2018, Plaintiff Kenneth Weekly was diagnosed with a local recurrence of cancer.

8 10.

9 Defendants were negligent in one or more of the following ways:

- 10 (a) In misdiagnosing the location of Plaintiff's primary cancer;
- 11 (b) In failing to consult with a radiologist about the June 2, 2016 CT scan results
regarding location of the tumor;
- 13 (c) In failing to consult with or refer Plaintiff to an oncologist regarding treatment
options prior to surgery;
- 15 (d) In failing to accurately explain the location of the tumor and the surgery necessary
to remove it, and the risks of that surgery, in obtaining informed consent to
proceed with the procedure;
- 18 (e) In failing to identify and protect Plaintiff's left ureter down to the level of the
rectum during the surgery, and in transecting the left ureter; and
- 20 (f) Failure to recognize and diagnose that Plaintiff's ureter had been transected so he
could obtain timely repair.

22 11.

23 Defendants' negligence in one or more of the foregoing particulars created a foreseeable
24 risk of harm to Plaintiff Kenneth Weekly and was a substantial factor in causing him to suffer
25 serious injuries, an increased risk of recurrence of cancer, and increased risk of death. As a result
26 of the injuries caused by Defendants, Plaintiff required multiple surgeries, he suffered multiple

1 infections which disrupted and impaired the chemotherapy regimen recommended to treat his
2 cancer, and he was denied radiation treatment recommended to prevent cancer recurrence. The
3 described injuries have caused and will continue to cause Plaintiff to suffer pain, disfigurement,
4 anxiety, and emotional distress, all to his noneconomic damage in an amount to be determined by
5 the jury in accordance with the law, not to exceed \$6,000,000.

6 12.

7 Defendants' negligence in one of more of the foregoing particulars caused Plaintiff
8 Kenneth Weekly to lose a chance for a more favorable medical outcome. To a reasonable degree
9 of medical probability, Mr. Weekly's chance of suffering a local recurrence of cancer increased
10 from 3.6% to 29.3%.

11 13.

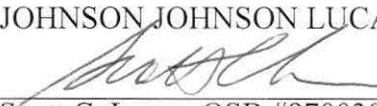
12 In treatment of the described injuries, Plaintiff Kenneth Weekly has required, and will
13 continue to require surgery, hospitalizations, medications, and ongoing medical monitoring, and
14 he has sustained wage losses and impairment of his earning capacity, all to his economic damage
15 in an amount to be determined at trial, not to exceed \$1,000,000.

16 * * * * * * * * * * * *

17 WHEREFORE, Plaintiff Kenneth Weekly prays that he recover judgment against
18 Defendants, and each of them, as follows:

19 (a) For noneconomic damages not to exceed \$6,000,000;
20 (b) For economic damages not to exceed \$1,000,000; and,
21 (c) For costs and disbursements incurred in this action.

22 DATED: April 13, 2018.

23 JOHNSON JOHNSON LUCAS & MIDDLETON, P.C.
24 
25 Scott C. Lucas, OSB #970030
26 slucas@justicelawyers.com
Of Attorneys for Plaintiff

Trial Attorney: Scott Lucas