



BSPH congratulates Attorney Bret C. Perry on his recent defense verdict in a medical malpractice action pending in Stark County, Ohio.

The Plaintiff presented to the defendant-physician with a left-sided head and neck mass that had rapidly increased in size over the prior two days. The results of a fine needle aspiration and biopsy of the mass was returned suspicious for malignancy, but not confirmatory for cancer. As a result, the defendant-physician scheduled Plaintiff for an incisional biopsy followed by a modified neck resection if the mass was returned positive for squamous cell carcinoma. Following the incisional biopsy, it was confirmed that Plaintiff was indeed suffering from squamous cell cancer and a radical

Stage IV T1N3 cancer of the head and neck.

Plaintiff claimed that the defendant-physician was negligent in failing to consider chemotherapy and radiation as a first line of therapy. Plaintiff claimed that if chemotherapy and radiation was initially administered, Plaintiff would have avoided a radical neck dissection, the resulting scar and disfigurement and would not have suffered injury to several facial and neck nerves causing paralysis of his left arm. Due to the nerve injuries, Plaintiff claimed to be permanently disabled.

In defense, Attorney Perry offered the testimony of a board certified Otolaryngologist and Medical Oncologist establishing that the standard of care was met. In addition, the expert testimony established that Plaintiff's multiple medical issues required surgical dissection and that the nerve injury was a necessary sacrifice in order to cure Plaintiff's cancer.

Following deliberations, the jury returned a unanimous defense verdict in favor of the defendant-physician in less than one hour.

