

# OF COUNSEL

A quarterly report  
to clients  
and attorneys.

VOLUME 04  
NUMBER 2

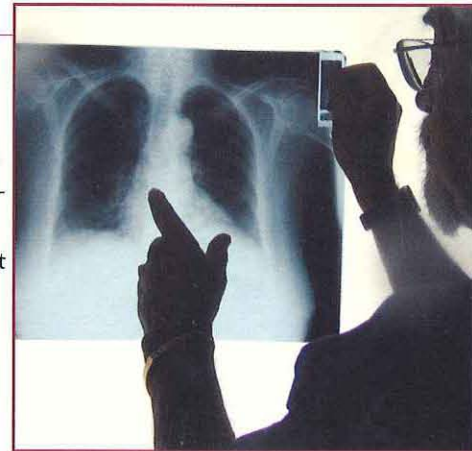
## *Unreported Chest X-rays Result in Inoperable Cancer*

In May 1999, Charlotte Grimm was under the care of a doctor named Freeland Williams, M.D., who referred her to Dr. Elias N. Nasr for a hernia operation. In preparation, Mrs. Grimm was sent for a pre-surgical x-ray, and she was subsequently cleared for the operation. Unbeknownst to Mrs. Grimm and her husband, Darrell, that x-ray report was not placed in Mrs. Grimm's chart before the surgery was performed.

Roughly two years later and unrelated to her hernia procedure, Mrs. Grimm was diagnosed with stage IV lung cancer.

By that time, her cancer had advanced to the point where her doctors predicted that she had less than a year to live. Refusing to give in, Mrs. Grimm underwent extensive treatment in a gallant attempt to survive. Sadly, despite her best efforts, Mrs. Grimm lost her battle with cancer and passed away on October 29, 2002.

Following the diagnosis of cancer, Mr. Grimm became suspicious that his wife's care had not been up to par. He recalled a visit to Dr. Nasr in April of 2002, when Mr. Grimm and his wife told Dr. Nasr about the diagnosis of cancer. During that meeting, Dr. Nasr made mention about a prior x-ray, and began reading a report from his chart. He then suddenly stopped reading, closed the chart, and changed the subject. *Continued on page five.*



## *Misdiagnosed Shunt Malfunction Results in Death*

Attorneys Lance Block and Jim Gustafson recently resolved a medical negligence case for \$2 million involving the wrongful death of a severely disabled 13-year-old girl, who died as a result of an untreated shunt malfunction.

A.L. had hydrocephalus due to spina bifida, a congenital abnormality of the spinal column and central nervous system. Hydrocephalus is an accumulation of excess

cerebral spinal fluid (CSF) within the skull. The excess fluid has no avenue of escape, which causes an increase in intracranial pressure. If untreated, the excess pressure can lead to death.

Treatment for obstructive hydrocephalus usually consists of the surgical placement of a shunt, a tube-like device that drains the excess fluid from the ventricles in the brain to the abdominal cavity, thereby restoring a normal amount of CSF within the skull.

Shunts, however, can malfunction, and health care providers should presume the worst when confronted with signs and symptoms indicative of such. Symptoms of shunt malfunction can include severe headache, nausea, vomiting, lethargy, sleepiness, stiffness and pain in the neck, and abnormal behavior. A child that presents with symptoms of shunt *Continued on page seven.*

**Voter Registration Information  
In This Issue!**  
FIND OUT HOW AND WHERE  
TO REGISTER...  
(PAGES 6-7)

## Confidential Settlement:

DEADLY  
MANUFACTURING  
DEFECT IN  
MOTOR VEHICLE

Furthermore, as with any vehicle, Chevy Cavaliers utilize electronics and computers, any of which could malfunction intermittently, leaving no evidence that the defect had occurred. It was therefore crucial to demonstrate that the apparent defects leading to this crash were not indicative of a purely isolated incident. Though its attorneys objected vehemently, GM was forced to provide documentation of all incidents of unwanted acceleration reported by its customers.

Attorney Shevin explained, *"We took videotaped depositions of more than a dozen people throughout the country who at one time could not control a runaway GM vehicle. For example, testimony was elicited from a young woman forced to jump from a moving vehicle, as well as a trained ambulance driver who could not stop her runaway vehicle by applying the brakes."*

Experts retained by the plaintiffs indicated that a simple, fail-safe device could have been implemented that would automatically prohibit acceleration whenever the brakes were being applied. Such a safety measure would have prevented this and other horrific crashes, and would thereby safeguard the public from future incidents. General Motors maintained an avid defense, and a jury trial was scheduled to begin on September 15, 2003. However, on the eve of trial, a settlement was reached with the families of the two deceased boys, the sums of which must be held confidential. Reflecting on the litigation of this case, Chris Searcy stated, *"It was always clear to us that no one in his right mind would purposely go down that road at 90 mph, and all of the circumstantial evidence clearly showed that Tim was trying with all his might to stop the vehicle. No matter how costly or time consuming, we were going to turn over every stone to prove that fact."* ■

In the event that your vehicle has had an episode of unwanted acceleration, we urge you to immediately contact the vehicle manufacturer and the National Highway Traffic Safety Administration to report what could prove to be a deadly manufacturing defect.

Website: [www.NHTSA.dot.gov](http://www.NHTSA.dot.gov)

Toll Free: 1-888-DASH-2-DOT

## Unreported Chest X-rays Result in Inoperable Cancer

*Continued from page one.*

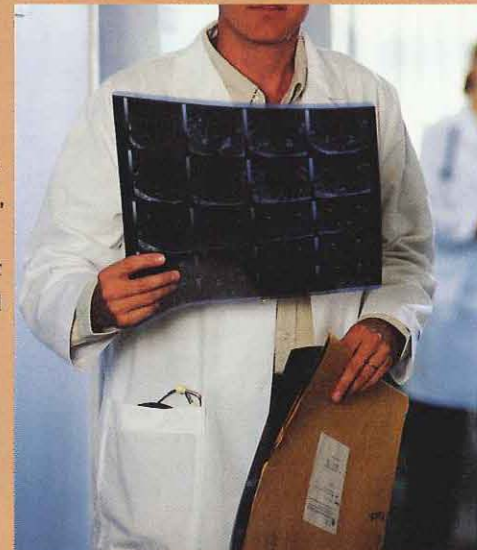
Acting on his curiosities and suspicions, especially about that meeting, Mr. Grimm asked Dr. Nasr's assistant for copies of any radiology reports. Within those records was the July 1999 chest x-ray report, which described a "15 mm paratracheal density just beneath the right sternoclavicular joint, neoplasm must be excluded." In short, the report had suggested cancer. There was also a comparison done to another report that recommended a CT scan. Tragically, the x-ray findings and recommendation for further testing had never been relayed to the Grimms.

Mr. Grimm contacted attorney John Shipley to investigate his wife's medical care. Records produced to Mr. Shipley by Dr. Nasr included a handwritten page of notes indicating that Dr. Nasr's office had called the Grimms several times and eventually notified Mrs. Grimm of her need for additional studies. Given the fact that Mr. Grimm and his wife vehemently disputed that information, Dr. Nasr's original chart was requested so that ink and handwriting studies could be made in an attempt to determine when the notes were written. In response to that request, Dr. Nasr's office advised that the original chart could not be located.

This case was tried in Vero Beach against Dr. Nasr and a second physician, Dr. Williams, who was named as a defendant because Dr. Nasr's chart indicated that Dr. Williams had been contacted with the results of the chest x-ray. Dr. Williams refuted that allegation. Surprisingly, Dr. Nasr admitted that he had not personally discussed the findings with Mrs. Grimm, nor had he sent her a letter with the results of the chest x-ray. Although Mrs. Grimm died before the trial, her testimony was presented by way of a videotape done just before she died.

Evidence was presented at the trial that the delay in Mrs. Grimm's diagnosis allowed the cancerous tumor to grow, from the size of a walnut to the size of a half loaf of bread, and to spread to other areas. The cancer, which would have been curable in 1999, had therefore progressed to the point where it was not curable.

The jury found Dr. Nasr 100% liable for the death of Charlotte Grimm, and awarded damages of \$1.54 million. After nearly 40 years of marriage, nothing can make up for Mr. Grimm's loss, but at least the verdict provided him with a measure of justice. ■



**\$1.54 Million  
Verdict:**

**IGNORED  
X-RAY REPORT  
RESULTS IN  
WRONGFUL DEATH**