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## Negligence trial begins today for Bend clinic

By Sheila G. Miller / *The Bulletin*

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Opening arguments are set to begin today in a \$5.5 million civil trial that pits a doctor and the Bend Memorial Clinic against a patient who alleges her colon cancer was not discovered because of negligent care.

Mia Bongers, 84, of Bend, sued Dr. Thomas Warlick and BMC in November 2011, alleging personal injury and medical malpractice. Warlick has worked at BMC since 1977.

According to an amended complaint, Bongers alleges that Warlick and BMC were negligent in failing to order or perform, offer or recommend a colonoscopy or colon cancer screenings between Nov. 22, 2006, and May 8, 2009. As a result, the complaint alleges, Bongers' metastatic colon cancer was not diagnosed or treated in a timely manner.

Bongers is asking for not more than \$5 million in noneconomic damages and \$500,000 in economic damages related to medical, hospital and rehabilitation expenses.

Warlick and BMC deny the claims, alleging Bongers failed to follow Warlick's recommendation to have preventive screenings, as well as three other doctors' recommendations to have a colonoscopy.

The original complaint also included St. Charles Health System, Central Oregon Radiology Association and Dr. Ronald Hanson, but they were dismissed from the case.

Bongers and Warlick were in court Tuesday as attorneys selected jurors for the trial, which is slated to last two weeks.

According to the plaintiff's trial memorandum, Bongers began going to Warlick in 1986. In 1992, he performed a general exam and screened her for colon cancer.

"Over the next 15 years, Dr. Warlick saw Mrs. Bongers numerous times but did not offer or perform any general exams or colon cancer screening tests," the memo states.

The memo alleges Warlick was Bongers' primary care physician for 21 years and he should have offered patients over 50 an "initial screening colonoscopy," but failed to do so at her appointments.

Hospitalized in 2009

Bongers was hospitalized for diverticulitis in May 2009, and afterward had a follow-up appointment with Warlick.

"On that date, despite knowing that Mrs. Bongers was 80 years old, had an abnormality in her colon and had never undergone a colonoscopy, Dr. Warlick negligently failed to order a colonoscopy," the memo states. "Had Mrs. Bongers undergone a colonoscopy at that time, her colon cancer would have been discovered and could have been treated and cured with a colon resection and chemotherapy."

Subsequently in November 2009, according to the memo, Bongers was hospitalized twice more for diverticulitis, and

eventually had a colon resection surgery that turned up colon cancer. The cancer had spread to her lungs. It has been in remission since June 2010.

Bongers alleges Warlick never recommended she get any screenings after 1992.

'Sporadic' patient

But the defendants' trial brief tells a different story. Warlick first saw Bongers in 1986 for shingles and went to BMC "sporadically" and for "acute care issues" until she got a physical in March 1992. Warlick, according to the brief, suggested she come in for a routine annual exam each time she came for acute issues, but she never did.

For the following years, the brief states, Bongers went to BMC from time to time for illnesses like bronchitis, sinusitis and skin conditions, but not for preventive care.

"Dr. Warlick will testify that he told her each time that he saw her that she needed to come in for a screening exam. He always tells his patients to get in for screening exams as he can't do screening exams during acute medical visits," the brief states.

But, the brief states, Bongers did not have mammograms or other preventive screenings performed.

"That was her own choice," the brief states.

The brief further alleges that after Bongers was hospitalized for diverticulitis in May 2009, she was told by three physicians to schedule a colonoscopy with Warlick. When she saw Warlick in June 2009, she "failed to tell Dr. Warlick about the recommendation for a colonoscopy and failed to tell him this was her second hospitalization for diverticulitis."

Warlick prescribed an antibiotic for another illness and asked Bongers to return once she finished the medication. He planned, the brief states, to talk over the diverticulitis at that following appointment, but Bongers never returned.

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