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## Widow's fight lives on

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By Adrian Walker, Globe Columnist | May 18, 2006

Richard Gasior, his widow recalls, loved Massachusetts General Hospital.

He loved going in and fixing problems. He loved working as a plumber at a great hospital. He was proud of the distance he had traveled since arriving in America from his native Poland in 1965.

So when Gasior took a disability leave to deal with a heart ailment in 2000, he had no intention of leaving the hospital permanently. He was having angioplasty and expected to go back to work a few months later.

"He was a really old-fashioned kind of good man," Elizabeth Gasior said last week. "His work and his family were his life."

Gasior spent several months recovering from his heart procedure. When it was time for him to return to work, his doctor said he needed three more months of recuperation. Rather than extend his leave, Mass. General fired him.

Gasior sued the hospital. He fell into debt and depression. But before his case came to trial, Gasior contracted gastric cancer. While waiting for his day in court, in 2003, he died.

The hospital argued that when Gasior died, his case died with him. The Supreme Judicial Court disagreed last week, ruling that the case can go forward. The court found that his claim of being discriminated against for medical reasons deserves to be heard by a jury.

It is novel, though not unprecedented, for a plaintiff to prevail posthumously. State law declared that certain kinds of claims can be pursued by one's estate, in the event that the person in question dies before the claims are resolved.

Claims of discrimination, however, are not included in that law. The SJC took the opportunity to rule, for the first time, that a discrimination case does not, in fact, die with the person who files suit.

Frank Reardon, the lawyer representing Mass. General, said the hospital had acted in good faith and was genuinely concerned that Gasior was no longer up to the physical demands of his job. "We don't believe we discriminated against him on any basis," Reardon said yesterday. "We thought there were questions about when he could return to work and his ability to do the job and whether it would be restricted or unrestricted. It's clearly our position that we did our best."

That's certainly not the position of Elizabeth Gasior, or her lawyer, Shannon Liss-Riordan. They say the hospital snatched away the very thing Richard Gasior lived for and that he never recovered emotionally.

"After all this happened, he just shut down emotionally and got really depressed," Elizabeth Gasior said. "He lost everything."

After a while, his financial woes were such that finding a new job wasn't enough to fix them, his widow said. "The financial problems didn't disappear," she said. "We lost all our savings. Just getting a job was not enough. And after that he got sick with cancer."

The suit contends that the hospital refused to accommodate his medical condition, discriminating against a handicapped person. There is no date yet for the trial. Gasior's widow is seeking both punitive and compensatory damages.

"They used the fact that he was out on medical leave to [fire him]," Liss-Riordan said. "Then they hired several more plumbers around the same time."

Toward the end of Gasior's life, it was clear that he was literally racing the clock to get to trial, Liss-Riordan said. He

gave a deposition on videotape, to be used if he did not live to testify. "It was really on his mind that he wanted to have this case resolved before he passed on."

Liss-Riordan suggests that the lawyers for Mass. General sought to delay the trial in spite of Gasior's grave illness, an assertion that Reardon, Mass. General's lawyer, emphatically denies.

For now, Elizabeth Gasior is a happy woman. She said her husband wanted her to continue his battle, and so she has.

"This may have some kind of meaning to other families," she said. "This shouldn't happen to people who have given everything and are left with nothing."

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