

Negligent care and incompetent diagnosis leads to patient's death

The surgeon had a history of surgical mishaps and was unable to provide safe and competent care.

SDSBS had the privilege of representing Stephen Jones (not his real name) individually and as Personal Representative of the Estate of Rene Jones (not her real name), his wife, in a medical malpractice/wrongful death case against a Hospital and the hospital's surgeon.

The facts of the case were that then forty seven (47) year old Rene Jones presented to the hospital with abdominal pain. The Hospital assigned a surgeon to the case who opined that Mrs. Jones' gallbladder needed to be removed. The surgeon performed a laparoscopic gallbladder surgery. The surgery was labelled uneventful.

Approximately twelve (12) hours after the surgery, Mrs. Jones stood up to go to the bathroom. She fell on her way to the bathroom and lost consciousness. She was then brought back for another surgery. The surgeon noted that there was two (2) liters of blood in the abdomen. The surgeon packed the abdomen with gauze and stapled her back up without repairing any source of the bleeding.

After surgery, Mrs. Jones bled to death.

Attorney **Matt Schwencke** was contacted by Mr. Jones and investigated the case. Mr. Schwencke put the hospital and the surgeon on notice of its negligence and claimed that the surgeon failed to appreciate active bleeding. Mr. Schwencke also claimed that the hospital negligently permitted this

general surgeon to remain on staff as his investigation into the public records concerning this surgeon revealed that the surgeon had a longstanding history of surgical mishaps and was unable to provide safe and competent care to patients due to his serious personal problems.

As such, Mr. Schwencke informed the hospital that this was a case of punitive damages as the hospital had an independent duty to ensure the competence of its medical staff. Mr. Schwencke claimed that the hospital's conduct in continuing to credential and provide privileges to this surgeon was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life of Mrs. Jones, causing her death.

At the conclusion of the pre-suit period, the hospital and the surgeon admitted fault and requested arbitration in an attempt to limit the economic and non-economic damages that would be awardable at trial. Mr. Schwencke contended that the arbitration statute was unconstitutional and that punitive damages were available if he elected to put the case into litigation. The settlement amount cannot be disclosed, but the defendants settled the case for its full value, regardless of the arbitration request.

Attorney **Karen Terry** had the exact same type of case against the exact same defendant surgeon and hospital one year later. The patient she represented also bled to death and it was not recognized. That case also settled for its full value. ♦

Attorney Karen Terry had the exact same type of case against the exact same defendant surgeon and hospital one year later. The patient she represented also bled to death and it was not recognized. That case also settled for its full value.

Did you know you can get your issues of *Of Counsel* newsletters emailed to you?

All you have to do is request them by email to: BRF@SearcyLaw.com