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Lee Memorial cover-up suit delayed

Family to appeal '01 ruling that axed fraud claim

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Three days before Lee Memorial Hospital would have had to defend claims its employees administered a lethal dose of medicine to a hip surgery patient and covered it up, the case was delayed so the family of the dead woman can appeal a ruling.

The nearly 10-year-old lawsuit as supposed to start Monday in Collier County after attorneys filed Lee County Senior Circuit

Judge Jack Schoonover agreed to change the venue. But during a hearing Friday, Schoonover denied the plaintiff's efforts to overrule a 2001 ruling by a different judge and threw out the fraud claim against the hospital.

"I do not believe it is in my client's best interests to spend three weeks on a show trial that would make a mockery of the system," Fort Myers attorney William DeForest Thompson Jr. told the judge. "It is heartbreaking that after 10 years and on the



THOMAS
Patient died in 1997

beat, an anesthesiologist and nurse gave her a fatal undiluted 875-milligram injection of Esmolol heart medicine. The medicine was supposed to be

footsteps of trial, doors have been closed on her."

In March 1997, 81-year-old Mildred Thomas had hip replacement surgery. Because of a rapid heart-

diluted. It wasn't until five days after Thomas died that the medical examiner's office found out how it happened. By then, Thomas' body had been embalmed — destroying any evidence of an overdose — and was in Alabama where her family was trying to bury her, according to court records.

Thomas' children are now suing Lee Memorial, claiming everyone from the hospital's former medical director to recovery room nurses conspired to conceal the overdose and the mistakes

that led up to the fatal injection.

But Friday, Schoonover ruled that based on case law, Lucy Thomas and her family shouldn't be allowed to receive damages. Thompson argued that the case law doesn't apply to this type of lawsuit and without the ability to earn damages, the trial would be pointless, Thompson said.

Schoonover granted the attorneys' requests to continue the case so Thompson can pursue an appeal arguing Thomas' civil rights were violated by the state court. If granted, Thompson

said, it could open up the hospital to be liable for damages more than \$250,000, the state law allowed amount for public hospitals.

Douglas Lumpkin, who representing Lee Memorial Hospital and several employees, said earlier this week that the hospital admits to a mistake but no withholding information.

"From the beginning, Lee Memorial has taken responsibility for the error that occurred," he said. "It continues to delay that Lee Memorial and employees tried to cover it up."