

Lee Memorial's 12-year Fort Myers medical malpractice case highlights hospital's dodge of responsibility

It was March 6, 1997 when 81-year-old Mildred Thomas went under the knife at Lee Memorial Hospital for a hip replacement surgery. Although the procedure was successful, Thomas died of heart failure shortly after the surgery, the News Press reports.

At first, her family was told she died of a heart attack. Given Thomas had a history of heart disease, and given her age and the invasive nature of the procedure, the family accepted this grim truth as many families would. After all, why would a hospital lie about such a thing?

Our Fort Myers medical malpractice lawyers know that surgery can be a risky business rife with medical complications and human error. A study published in the National Academic Press estimates that in 1997, somewhere between 44,000 and 98,000 Americans die in hospitals each year as a result of a medical error.

For the family of Mildred Thomas, the facts about what really happened to their mother during her March 6 surgery began to emerge five days after her death. They were in Alabama preparing for her funeral when the call came. The Fort Myers medical examiner's office was requesting a second autopsy after learning that Thomas had died from an in-surgery overdose, not a heart attack, as was initially suggested.

What complicates this Florida medical malpractice case is not the allegation of malpractice itself, but rather that of fraud. Florida law dictates that surviving adult children of parents who die due to an act of medical malpractice are not eligible for monetary damages associated with pain and suffering. In the case of fraud, however, there is no limit on what damages surviving family members may be awarded.

The allegation of fraud has become the legal sticking point. Stretching the medical malpractice case into a 12-year legal battle in which the hospital has thus far paid \$250,000 in legal fees. Under normal limits, the hospital's liability would have been \$100,000 per victim or \$200,000 per occurrence.

This case highlights the complexity of medical malpractice claims and why it is critical to hire an experienced law firm with the ability to go toe-to-toe with the giant hospital and medical corporations that are so used to having things their way.