

dbbr DAILY BUSINESS REVIEW

VERDICTS & SETTLEMENTS

Family gets \$3 million settlement after mother dies awaiting surgery

Case: James Frock, individually and as personal representative of the estate of Melissa Frock v. Citrus Memorial Health Inc., Dr. Abel Garibaldi, et al.

Case no.: 07-1946

Description: Wrongful death

Filing date: Oct. 22, 2007

Settlement: April 30, 2009

Judge: Citrus Circuit Judge Patricia Thomas

Plaintiff attorneys: John Elliott Leighton, Leighton Law, Miami

Defense attorneys: Scott Reichert, Bice Cole, Ocala; Kelly Hamer, Siboni Hamer & Buchanan, Ocala

Outcome: \$3 million settlement

Details: Melissa Frock, a 35-year-old mother of three, was admitted to Citrus Memorial Hospital in Inverness suffering from severe pneumonia Aug. 25, 2005. Doctors discovered on X-rays an aneurysm on her pulmonary artery, but postponed surgery because of the pneumonia. She recovered from the pneumonia, but the aneurysm was not treated and burst. She bled to death Sept. 11, 2005.

Plaintiff case: Leighton claimed Garibaldi, a hospital employee, ignored Frock for two weeks despite knowing she had a life-threatening aneurysm that needed to be treated.

"He abandoned the patient, and he didn't communicate with any other physicians," Leighton said. "They all thought he was going to perform surgery at the earliest opportunity."

Frock's family thought she was getting adequate care and was encouraged that she recovered from the pneumonia. Frock may have lost a lung during surgery on the aneurysm.

"Despite the fact it was a rare aneurysm, it was still treatable,



Plaintiff attorney John Elliott Leighton

A.M. HOLT

and experts felt she would have survived a surgery," Leighton said.

Defense case: Reichert, who represented the hospital, declined comment. Hamer, who represented Garibaldi, did not return calls by deadline. Leighton said Garibaldi's attorneys claimed he did not believe Frock had a pulmonary artery aneurysm, a weakening of the vessel that carries blood between the heart and the lungs. Defense attorneys also maintained the case fell under the state cap on non-economic damages.

Garibaldi now works as a doctor in New Hampshire, Leighton said.

Results: Leighton argued in negotiations that Frock was the main provider for her family because her husband, James, was disabled during the first Gulf War in the early 1990s. The Walmart employee was planning to go back to school to become a crime scene technician.

The Frocks' three daughters — ages 13, 15 and 18 — were honor roll students before their mother died but have since struggled in and out of school.

The settlement was reached with trial set for next Monday. About \$2.5 million of the settlement came from the hospital and its insurance carrier. The hospital also waived about \$50,000 in bills. The rest came from Garibaldi's insurance. Other parties in the case settled earlier for \$400,000.

Comments: "This is truly an example of an American tragedy," Leighton said.

Post settlement: The \$3 million will be placed in trusts for the children and Frock's husband.