

# Petition

Via Fax

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## Tragic Medical Mistakes Continue



### **\$2,575,000 Award for a 61 year-old Medical Negligence Victim left Brain Damaged**

**LLR&M** partner **John Elliott Leighton** represented this profoundly injured

plaintiff against a defendant hospital who negligently administered a catastrophic combination of demerol and morphine following routine back surgery. The improper treatment caused respiratory arrest and myocardial infarction which led to anoxic brain damage.

Because of **Leighton's** efforts, our client will now have the resources to provide custodial care and return some dignity to her life. *Jane Doe v. ABC Hospital*, Broward County, Florida Circuit Court, Nov. 10, 1997 (Confidential Settlement).

**Leighton** and **LLR&M's Robert Boyers** also combined their efforts in a **\$700,000** settlement against the University of Miami for surgical errors which resulted in death during gastric bypass surgery. Jule Nutig, a 54 year-old wife and mother, bled to death during this procedure which was performed to treat her obesity. *Estate of Nutig v. University of Miami*, Dade County, Florida, December 1997.

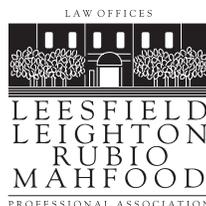
**Robert Boyers** also teamed up with senior partner **Ira H. Leesfield** in two other 1997 medical negligence cases resulting in awards of **\$2,500,000**. In Broward County, **Leesfield** and **Boyers** represented an infant whose hand fell off when an intravenous line was wrongly



inserted into an artery instead of a vein. Later in the year, **Boyers** and **Leesfield** represented a Collier County family for the loss of their mother where there has been a partial settlement in the amount of **\$1,000,000** for the failure of a physician to timely diagnose and treat a urinary tract infection which led to her untimely death.

## Most Medical Mistakes Never Reported

Many hospitals routinely violate state law by failing to report tragic medical errors. Florida's top healthcare regulator, Doug Cook, has said that "patients are being harmed needlessly and no one is being held to respond." Mr. Cook, head of Florida's Agency for Healthcare Administration, has noted that the punishment for failing to admit a medical mistake—a fine of \$5,000—is too weak to have any effect. Several studies that have examined medical malpractice have concluded that most incidents of medical negligence are never reported or discovered.



## 1998 Medical Negligence Update



**LLR&M** partner **Maria Rubio** challenged the medical community to improve patient safety during 1997. **Rubio's** results include a verdict for **\$395,000** for abdominal scarring,

*Calle v. Sarduy, et al.*, a **\$900,000** settlement with partner **Ira Leesfield** for failure to treat back injuries, and numerous awards involving a negligent splenectomy, negligent mammoplasty augmentation, a punctured colon, wrongful death of an infant, negligent transportation of a patient and foreign objects left after surgery.

We entered 1998 with the hope that medical care will be improved and medical negligence reduced by increased vigilance and attention on behalf of healthcare providers.

## Florida Medical Malpractice Requirements / Notice of Intent:

Florida Medical Malpractice Act (Fla. Stat. §766 et seq.) contains a series of highly specific requirements with which a claimant must comply before commencing suit. Here are a few highlights: F. S. §766.106 requires claimant to send, by certified mail, a correspondence clearly indicating the intent to initiate a medical action. This correspondence must be accompanied by an affidavit from an expert supporting reasonable grounds for the claim against each defendant.

This notice letter triggers a 90-day reciprocal presuit discovery and investigation period which is primarily of three types: **(a)** production of documents or things; **(b)** unsworn statements of opposing parties; and **(c)** physical examinations.

Failure to cooperate can lead to sanctions.

At the end of the 90-day presuit period, the prospective defendant must either: **(a)** reject the claim (this requires an expert opinion stating that reasonable grounds to support claim do not exist); **(b)** make an offer of settlement;



or **(c)** admit liability and demand binding arbitration. The arbitration statute contains limitations on liability provisions. F.S. 766.207; 766.209.

If Plaintiff commences suit, the complaint must contain a "Certificate of Good Faith" which states the attorney has made a reasonable investigation to support a good faith belief that grounds exist to commence the action against each named defendant. F.S. 766.104.

## Second Scholarship Endowed

The **Leesfield Family Foundation** has endowed a second five-year scholarship to the Dade County Chapter of the Florida Association for Women Lawyers. This year, the Honorable **Ellen Leesfield** presented the award to an outstanding law student who has exhibited the highest commitment to trial advocacy and public justice. The endowment follows the ATLA/Leesfield Law Student Scholarship endowed in 1994 which recognizes outstanding trial advocacy by an ATLA Law Student.

## Computerizing Medical Research

There is a wealth of medical research available on the computer. For example:

**MEDLINE** is available at: <http://www.healthgate.com/HealthGate/MEDLINE/search.shtml>

For additional websites providing medical research, please call our firm at **1-800-836-6400**.

## Closed Claims Against Florida Physicians and Hospitals Available on the Internet

The Florida Department of Insurance has established a website at: <http://www.doi.state.fl.us>

Disciplinary proceedings against healthcare providers can be found at **Florida's Agency for Healthcare Administration** at: [Fcn.State.fl.us/fdhc/](http://Fcn.State.fl.us/fdhc/)

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