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Jones Morris Sued For \$6M Over Bungled Wrongful Death Case

By Jeremy Heallen

Law360, Houston (July 28, 2014, 7:43 PM ET) -- Jones Morris Klevenhagen LLP has been slapped with a \$6 million malpractice suit in Texas state court, which accuses the law firm of bungling a wrongful death suit against a Houston hospital and several medical providers, causing the litigation to be dismissed.

Gloria Cegielski says that Jones Morris partners John J. Klevenhagen and R. Keith Morris III failed to file an adequate expert report required by state law in medical liability cases, which resulted in the dismissal of a suit she filed against Houston Northwest Medical Center and others for allegedly causing the premature death of her sister.

"In order to convince Gloria to hire the lawyers for a survival and wrongful death case, Morris and Klevenhagen represented to Gloria that they had extensive experience in handling medical malpractice/wrongful death cases," the suit said. "Based on these representations, Gloria agreed to hire the lawyers on a contingency fee basis. Unfortunately, the lawyers had little to no experience handling medical malpractice/wrongful death cases."

Representatives for Jones Morris did not immediately respond to a request for comment on Monday.

Cegielski says that she hired Jones Morris to handle probate work associated with the estate of her sister, Mary Baker, who had been taken off life support after doctors at Houston Methodist Willowbrook Hospital concluded that she had suffered irreversible brain damage as the result of a stroke.

As the firm was assisting Cegielski with her sister's estate, Baker's family discovered that Houston Methodist's diagnosis had been incorrect and that the hospital and other caretakers, including Houston Northwest, had made a series of misdiagnoses in the weeks leading up to her death, according to the suit.

Although he lacked substantial experience in the wrongful death arena, Morris pressed Cegielski to retain him and Klevenhagen after "seeing a large contingency fee fall in his lap," Cegielski says.

Cegielski claims that Klevenhagen and Morris sued 22 hospital and caregivers, but failed to obtain sufficient expert reports that are required under state law to be served on medical malpractice defendants.

Even after the Harris County trial judge pointed out the defect and allowed the firm 30 days to correct the mistake, Jones Morris took no action, which led to the suit's dismissal, according to Cegielski.

But Cegielski says that the firm's most egregious act was when it subsequently attempted to convince her to close Baker's estate, which would eliminate the only plaintiff that could sue the firm for malpractice.

"Gloria suspected the lawyers committed legal malpractice and therefore did not want to close the estate," the suit said. "Thus, when Gloria refused to close the estate, Morris and the firm withdrew from representing the estate and allowed the court to remove Gloria as administratrix of Mary Ann's estate. This all occurred just before the two-year statute of limitations was to expire on any negligence claims against the lawyers[.]"

Cegielski was able to reopen her sister's estate and now wants a trial court to hold the firm responsible for allegedly mangling the wrongful death case. Cegielski says Jones Morris should pay \$2 million in actual damages and that as a result of the lawyers' deceptive claims about their expertise, any award she recovers should be tripled.

The suit alleges negligence, breach of fiduciary duty and violations of the Texas Deceptive Trade Practices Act. Cegielski is seeking actual and exemplary damages.

Cegielski is represented by Lance Christopher Kassab and David Eric Kassab of the Kassab Law Firm.

Counsel information for Jones Morris was not immediately available on Monday.

The case is Cegielski et al. v. Jones Morris Klevenhagen LLP et al., case number 2014-41361, in the 295th Judicial District Court of Harris County, Texas.

--Editing by Stephen Berg.

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