

NURSING HOME IGNORES PATIENT'S END-OF-LIFE DIRECTIVES AND WISHES

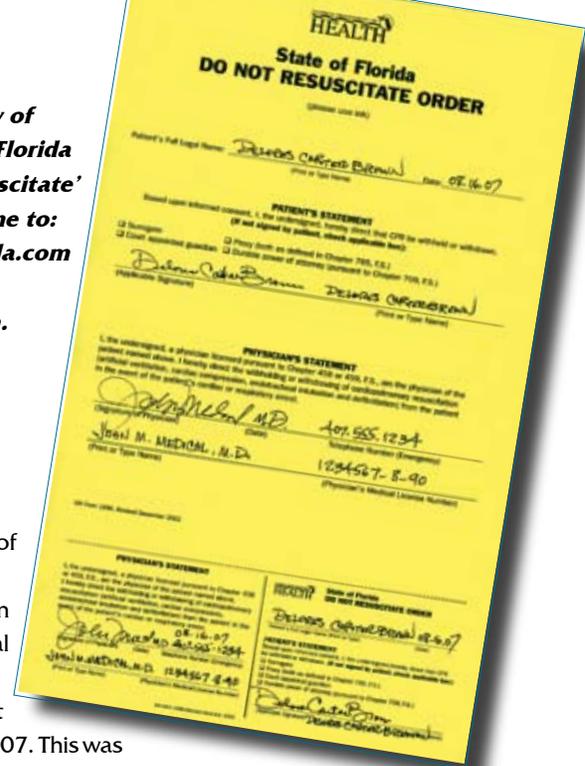
Florida's first trial and one of the first in the nation to successfully seek damages

Years before Madeline Neumann became debilitated by the onset of Alzheimer's disease, she thought carefully about what she wished to have happen at the end of her life, and she signed a living will and an advanced directive that she be permitted to die naturally, with no resuscitation attempts or forced feeding. Madeline had watched the long, lingering deaths of two daughters and her husband, and she knew she did not wish to prolong her own suffering. It was a thoughtful and very personal decision communicated to her family and to medical personnel charged with her care. Madeline was eventually diagnosed with Alzheimer's disease and, in the advanced stage of the disease, was cared for at the Joseph L. Morse Geriatric Center in West Palm Beach, Florida. Her living will and directives were provided to the Center and the staff was aware of the do-not-resuscitate provisions. However, on October 17, 1995, 92-year-old Madeline was found unresponsive. Center personnel called the medical director, who ordered Madeline Neumann's transfer to a hospital by ambulance.

For the previous three years, however, the Center had failed to place a Do Not Resuscitate Order on Madeline's nursing home chart—an order that was necessary to give effect to Madeline's end-of-life wishes. As a result, the paramedics who arrived to transport Madeline had no choice but to interrupt the process of her peaceful passing by initiating a full regimen of life-saving procedures. Those procedures included inserting a breathing tube in her throat. At one point, Madeline's arms had to be tied down to keep her from tearing the tube out. She was transported to the hospital where, for six days, she was subjected to a variety of invasive procedures. Finally, after being disconnected from a respirator, Madeline was allowed to die.

Madeline's granddaughter and healthcare surrogate, Linda Scheible, brought suit in 1997 on behalf of Madeline's estate against Morse Geriatric Center, charging breach of contract and medical negligence. SDSBS attorney Jack Scarola represented Ms. Scheible, along

To find a copy of the State of Florida 'Do Not Resuscitate' form, go online to: www.myflorida.com type in: 1896 on the search.



with Marnie Poncy, executive director of the Bioethics Law Project for the Palm Beach County Legal Aid Society. The suit eventually went to trial in February 2007. This was

Florida's first trial, and one of the first cases in the nation, to successfully seek damages for wrongfully prolonging the process of dying. It garnered a great deal of public and media attention. Court TV reporters attended the trial and provided excerpts from the trial on their programs aired in August 2007. Ms. Scheibel's attorneys did not request a specific monetary award. Education and awareness—not money—were at the heart of this case, according to Mr. Scarola and Ms. Poncy. In his statements to the jury, Mr. Scarola stated that everyone has a constitutional right to control decisions about health care and death, and that Madeline Neumann's clear directives were ignored by the Center, resulting in unnecessary suffering at the end of her life.

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On March 16, 2007, the jury returned a verdict in favor of Madeline Neumann's estate, finding Morse Geriatric Center liable for \$150,000 in damages. Ms. Scheibel said that the verdict tells those who care for the elderly and infirm that they need to pay attention to patients' end-of-life directives and wishes. "We undertook this case because of those legal issues," Mr. Scarola said. "The verdict confirmed the accuracy of this message." ■

**\$150,000
Verdict:
MEDICAL
NEGLIGENCE**