



Law firm to pay \$1.63 million

Medical malpractice case allegedly ruined for client

By ANTHONY PIPITONE
SUN STAFF

A Baltimore law firm and two of its lawyers have settled for \$1.63 million a lawsuit filed by the husband of a woman whose medical malpractice suit the lawyers allegedly mishandled.

The settlement, believed to be one of the largest ever in a legal malpractice case in Maryland, was reached Feb. 15 after conferences with Baltimore County Circuit Court Judge Frank E. Cicone.

Several allegations were deleted from the court file as part of the agreement before it was made public late last week.

James L. Foble, 55, charged that the firm — Rollins, Smalkin, Richards and Mackie — and attorneys E. Gwinn Miller and the late

Samuel S. Smalkin mishandled his and his wife's malpractice claim.

The wife, Patricia M. Foble, died in April 1979.

Though admitting no guilt, the firm, Miller and Smalkin's estate agreed to pay Foble \$550,000 cash and \$46,500 a year for at least 20 years, or until Foble dies.

Foble also will receive \$150,000 at age 65, according to lawyers on both sides.

If the case had been tried, a jury could have ordered the defendants to pay Foble the amount he would have received from a successful malpractice suit against the doctor, said Stephen L. Snyder, attorney for Foble.

Between August 1975 and April 1976, Patricia Foble underwent radiation treatment for Hodgkin's disease by Dr. George J. Richards Jr., a former Greater Baltimore Medical Center radiologist who has been cited in several malpractice cases, according to the suit.

Excessive doses of radiation

damaged Mrs. Foble's spinal cord, causing paralysis and pulmonary problems, including an embolism that led to her death, the suit alleged.

Smalkin, who died in January 1982, was hired by the Fobles in February 1977 to sue Richards for malpractice. But instead of taking the case to Baltimore County Circuit Court, Smalkin filed it with the Health Claims Arbitration Office in September 1978, the suit says.

The claim was dismissed by the arbitration office in August 1981 because the alleged injury occurred before July 1, 1976, prior to the panel's existence. The malpractice complaint should have been filed in court, the office ruled.

While Smalkin and, later, Miller appealed the jurisdictional question for months, the statute of limitations on the Fobles' claim ran out, the suit said.

Miller never revealed to the Fobles that he was a member of the Rollins firm or that "Foble indeed had a legal malpractice action which he could pursue."

Miller filed a new suit against Richards in May 1983, but by then the statute of limitations — three years after the discovery of the injury and three years after Patricia Foble's death — had expired.

In June 1983, the suit against Richards and GBMC was dismissed.