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He died on the Operating Room Table. Can You Still Bring a Claim for Conscious Pain & Suffering?

If your family member died on the operating room table during the course of surgery, can you claim pain and suffering as part of your wrongful death lawsuit? You want to know the answer? Come join me for a moment as I share with you some terrific information.

Hi, I'm Gerry Oginski. I'm a New York medical malpractice and personal injury attorney, practicing law in the state of New York. In all likelihood, it's going to be very difficult, if not impossible, to show that there was a conscious level of pain and suffering that this person was aware of immediately prior to their death. That's one of the key components of pain and suffering. We have to be able to show that we are more likely right than wrong, that this person who is about to die, had some conscious level of awareness of what horrible things were awaiting them. If we can't show that, than likely we're not going to be able to bring a claim for pain and suffering. That can happen when the person is having surgery, they're under anesthesia, for all intents and purposes, they're asleep, they can't feel or hear anything. Now, if something tragic happens during the course of the surgery, and they die on the operating room table, can we show that there was pain and suffering? In all likelihood, it's going to be very difficult, if not impossible, to do that.

This is very reminiscent of the Joan Rivers matter. She underwent an endoscopy where she had [lyxidation 00:01:18] and for all intents and purposes, she was asleep and not aware of what was going on. Little did she know all the tragedies that would befall her that ultimately lead to her death about a week later. If you cannot show that there was some level conscious pain and awareness of what horrible things were going on, it will be extremely difficult, if not impossible, to include that as part of your claim in your wrongful death case.

Why do I bring this up? Why do I share this terrific information with you? I share it with you just to give you an insight and an understanding into what goes on in these wrongful death cases here in New York. I realize you're watching this because you likely have questions or concerns about your own particular matter. If you have questions that need answers, what I invite you to do is pick up the phone and call me. I can answer your legal questions. You know, this is something I do every single day and I'd love to talk to you.

You can reach me at 516-487-8207 or by email at gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski, have a wonderful day.