

# Family Sues Over Cremation Mistake

## Mortuary, Hospital Named in Lawsuit

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The family of Mary Ann Calles, who was mistakenly cremated after she died Sept. 15 at Presbyterian Hospital, is suing the hospital and Romero Funeral Home.

The Albuquerque hospital and the Belen funeral home were listed as defendants in a six-count complaint arising from "the mishandling and mutilation" of Calles' body, said a lawsuit filed Thursday in 13th Judicial District Court in Los Lunas.

The counts include negligence,

infliction of emotional distress, breach of contract and warranties and breach of fiduciary duty.

Calles, 37, was a Belen artist and homemaker. Hospitalized for two weeks, she died of kidney and liver failure.

Romero's took her body for cremation instead of another corpse, the complaint said.

It said Presbyterian failed to protect the body from the time of Calles' death until the time Riverside Funeral Home, which was the funeral home that was supposed to pick up Calles' body, arrived. When Riverside tried to pick up the body, it already was gone.

The complaint alleges the hospital

negligently tagged or failed to tag the body and did not check to ensure Romero Funeral Home was taking the correct body from the hospital morgue.

Romero's failed to check all tags, to verify the paperwork and negligently cremated the body without taking due care to properly verify the deceased's identity, the complaint said.

Both defendants, according to the lawsuit, "negligently failed to promulgate and/or enforce policies and/or training, which would have prevented this incident."

The Calles family had planned a Catholic funeral, including a viewing, closed-casket ceremony and burial. The suit said instructions

were given not to embalm or cremate the body because the family's religious and personal beliefs required it to be properly buried in a designated cemetery.

When the Calleses learned what had happened, according to the lawsuit, "the family was devastated."

Presbyterian Healthcare Services was served with the lawsuit Friday, said Lisa Trujillo, a hospital spokeswoman.

"However, we have not had an opportunity to review it," Trujillo said. "We are disappointed that the Calles family felt they had to file a lawsuit against Presbyterian Healthcare Services because we were in communications with the family and had hoped to resolve this

without a lawsuit being filed."

Dicky Romero, owner of Romero Funeral Home, said Friday he and his attorney had not seen the lawsuit, so he couldn't comment on it.

"Still, our hearts go out to the family, and we hope everything turns out the best for them," Romero said.

Philip Gaddy, who's representing the Calles family along with attorney Robert Ortiz, said Mary Ann's husband, John, and daughter, Marlene, "have been focused on recovering their loved one so they can have a ceremony and get some closure." No funeral for Mary Ann Calles has been held, although a priest said a Mass for her.

Gaddy said he went to the Office of the Medical Investigator in an

effort to determine if the cremated body could be identified as Calles' remains. But he said he learned there was no way scientifically "to determine with any degree of confidence."

Gaddy said he inquired about a DNA test but was told it was impossible "given the state of the remains."

After he explained the findings to the Calleses, they opted not to accept the funeral home's word that it had Mary Ann's remains, Gaddy said.

"They want the legal system to give them the best answer available as to whether or not these are the remains," he said.