Language Barrier: Patient Can Sue For Lack Of Informed Consent, Substandard Post-Op Care.

The patient's sigmoid colon was perforated during a colonoscopy and polypectomy.

She had to return the next day for bowel resection and a colostomy. Then she had three more surgeries, to close the colostomy, to reopen the colostomy and resect the anastomosis and then finally to close the colostomy again.

There was no solid proof of medical malpractice during the colonoscopy.

However, the Superior Court of New Jersey, Appellate Division, ruled the patient had grounds to sue for lack of informed consent. She understood very little English and could read no English, yet she was asked to sign and did sign a consent form in English that ostensibly informed her that perforation of the bowel is a known complication of a colonoscopy procedure.

The patient was asked to sign and did sign a consent form in English even though she had no understanding whatsoever of what it meant.

After the procedure when she complained of pain caused by complications from the procedure her doctor and the nurses paid no attention to her and she was discharged home without further examination.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
August 11, 2009

Before any invasive procedure it is necessary for the patient to be given enough information about the risks and alternatives to be able to make an informed decision whether or not to give his or her caregivers permission to go ahead.

Her doctor and the nurses easily could have asked a family member to translate while they explained to her the planned procedure and the known risks to which she would be exposed.

The also court found fault with the patient's care afterward. Because of the language barrier her physician and the nurses paid no attention to her complaints of abdominal pain, again with no effort being made to have a family member or someone else translate what the patient was trying to communicate. **Ho v. Kluger, __ A. 2d __, 2009 WL 2431591 (N.J. App., August 11, 2009).**