

## Unclaimed Body: Court Validates Family Members' Right To Sue.

A once-prominent New York playwright expired in a Manhattan welfare hotel.

The police called the paramedics who transported the deceased to a hospital where the body remained for 30 days before being donated to a community-college embalming program and then buried in the Department of Corrections' potters' field.

When the family went to visit him at the hotel and learned of his death they contacted the police and followed the trail of evidence to the hospital and the burial site.

They had the body exhumed for a more proper funeral and burial.

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***“Right of sepulcher” is the term the common law uses in granting to the next of kin the absolute right to the immediate possession of a deceased’s body for preservation and burial.***

***Damages can be awarded to the next of kin against any person who unlawfully interferes or improperly handles the body.***

NEW YORK SUPREME COURT  
APPELLATE DIVISION  
April 28, 2009

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The New York Supreme Court, Appellate Division, validated the family’s right to sue the hospital.

### **Hospital Procedures Were Not Followed**

The hospital had policies and procedures for locating the next of kin.

However, there was no documentation of hospital procedures being followed. The sister was never contacted whose name and number were on file with the hotel desk clerk and relayed by the police to the hospital’s nursing supervisor. ***Melfi v. Mount Sinai Hosp.***, 877 N.Y.S.2d 300 (N.Y. App., April 28, 2009).