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Levin & Perconti Reaches \$6.5 Million Birth Injury Settlement with Advocate Lutheran General Hospital
Newborn suffers cerebral palsy when physician fails to perform a timely C-section

CHICAGO, November 24, 2010—Advocate Lutheran General Hospital in Park Ridge, IL and a physician have agreed to a \$6.5 million present cash value settlement for a young girl who suffered a brain injury during birth which resulted in debilitating cerebral palsy with mild to moderate mental retardation. Her brain injury occurred when physicians at the hospital failed to timely perform a Cesarean section. The settlement was reached during mediation and approved today in the Circuit Court of Cook County by the Honorable Elizabeth Budzinski. Attorneys John J. Perconti and Patricia L. Gifford of Levin & Perconti represented the injured child and her family.

On September 26, 2000, around 3:30 a.m., Denice Cisneros, formerly of Chicago, went to Lutheran General Hospital in labor after a normal and uncomplicated pregnancy with her first child. During her pregnancy, Denice carefully followed her physician's recommendations and expected a normal delivery. Her delivery was managed by Dr. Mark Simon, a family practitioner covering for Denice's regular family physician. During a prolonged second stage of labor, the family practitioner and a labor and delivery nurse, both defendants in the case, failed to determine the presentation of the baby's head and failed to diagnose cephalic pelvic disproportion, a condition that occurs when a baby's head is too large to fit through its mother's pelvis.

The physician and nurse misread fetal monitoring strips and gave Denice Pitocin, a medication used to induce labor, although her contractions were adequate. Despite a four hour second stage of labor, the baby did not move and descend. An obstetrician was consulted, and although he witnessed late and variable decelerations on the fetal monitoring strips, a warning sign for fetal hypoxia, he did not order an emergency Cesarean.

In the next thirty minutes, the baby experienced several more late decelerations, culminating in a terminal bradycardia, or a substantial slowing of the heartbeat, for over 15 minutes. When the obstetrician returned from performing another delivery, he ordered an immediate Cesarean. However, the anesthesiologist administered an epidural block rather than providing general anesthesia. Denice was not properly anesthetized for emergent surgery, and the staff had to hold her arms and legs down while the incision was made. The newborn, Yadira Ocegüera, was delivered, but due brain oxygen deprivation for over 15 minutes, she suffered hypoxic ischemic encephalopathy which caused cerebral palsy and mental retardation.

As a result the injuries she suffered at birth, Yadira, now 10, has difficulty walking and suffers from motor delays and moderate cognitive deficits. Her parents use an oversized stroller when taking her out in the community and she will most likely need some type of wheeled assistive device to function in the community as she gets older. She also needs assistance with dressing, bathing, and using the bathroom. The settlement will allow Yadira's family to provide her with ongoing care and medical treatment throughout her lifetime.

“As the pre-natal course was normal, our clients expected to have a healthy baby girl,” said John Perconti. “However, the unfortunate mix of an inexperienced family practitioner practicing obstetrics and an inexperienced labor and delivery nurse caused a relatively common labor abnormality to go unrecognized, untreated and undiagnosed until it was too late. This baby was not going to deliver vaginally, and should have been delivered by Cesarean section long before she became oxygen deprived. If so, Yadira would be perfectly healthy today.”

Levin & Perconti is a nationally renowned law firm concentrating in all types of personal injury, medical malpractice, and wrongful death litigation. The lawyers at Levin & Perconti are committed to protecting and vindicating the rights of people who are injured by the negligence of others. Please contact the firm at (312) 332-2872 or visit www.levinperconti.com for more information.

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