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**APPELLATE COURT AFFIRMS \$1.03 MILLION JUDGMENT FOR 10- YEAR- OLD  
GIRL'S BRACHIAL PLEXUS INJURY**

September 27, 2007-CHICAGO, IL-Jeffrey E. Martin of the Chicago law firm, Levin & Perconti received good news for his client, 10-year-old Julissa Arias (Arlington Heights) and her family. Today, the First District Appellate Court issued its order denying the appeal of Dr. Carey Bacalar (Hoffman Estates) from a jury verdict of \$1.03 Million in favor of Julissa Arias and her mother, Helia Arias and affirmed the accuracy of the ruling made by Trial Judge Patricia Banks back in July 2006. Judge Banks' ruling barred the testimony of Michele Grimm, PhD., a biomechanical engineer who served as a witness for the defense.

According to Julissa's attorney, Jeffrey Martin, "In July 2006, a jury found that during the birth of Julissa Arias on April 25, 1997, the Defendant obstetrician, Dr. Carey Bacalar, failed to use appropriate maneuvers and applied excessive force upon her head, thereby permanently damaging her right brachial plexus."

Martin added, "The jury found that the injury was caused by Dr. Bacalar's failure to follow proper medical procedures once he encountered shoulder dystocia (a condition in which the baby's right shoulder became stuck behind her mother's pubic bone). The defense sought to have one of their experts, Professor Grimm testify that the injury was caused by internal forces during the birth process before Dr. Bacalar ever placed his hands on the baby."

In commenting on the Appellate Court's decision, Martin stated: "The First District's

decision demonstrated that Professor Grimm's testimony was barred for good reason. Her opinions were based on a modified version of a computer model originally designed to reconstruct forces present in automobile collisions. She claimed that since her computer model showed the forces of maternal contractions and pushing during birth was greater than any force generated by physician actions, the injury was caused before Dr. Bacalar ever touched the baby."

Martin went on to say, "However, the Appellate Court noted that Professor Grimm's opinions were not reliable. The computer model failed to consider a number of factors that are part of the normal delivery process. Grimm's model used goat neck and rabbit nerve data to represent a human baby's anatomy. In her deposition, Grimm admitted that her model did not recreate the actual forces present in Julissa's delivery. Despite Grimm's testimony being barred, Judge Banks allowed this defense theory to be discussed at trial by Dr. Bacalar, his expert obstetrician, and on cross examination of Plaintiff's expert obstetrician. The jury rejected that argument. For that reason the Appellate held that even if Judge Banks' ruling was incorrect, it did not prejudice Dr. Bacalar's opportunity to have his argument heard."

Julissa Arias has undergone numerous surgeries and therapy sessions in trying to regain function in her right arm and shoulder.

"Although Helia Arias has waited over a year for the Defendant's post-trial motion and appeal to be completed, she can now breathe a sigh of relief knowing that her daughter's verdict will not be taken away. The Arias family has shown terrific faith in the trial by jury system," said Martin, "along with confidence that the truth would finally be proved."

When Martin called Helia to deliver the good news this morning, she was overjoyed. Arias said, "Thank you, thank you, thank you to the jury, the Court and Jeff Martin. This is one

of the happiest days in my life. After nine years of surgeries, therapies and learning to live with her disability, Julissa has gotten the justice she deserves. Her future is finally safe and secure.”

Arias added, “Jeff Martin has been our angel –patient and caring throughout this whole ordeal. All he ever wanted was justice for our family.”

”My mom prayed so hard for Julissa’s future to be in good hands. I can’t wait to call her to give her the news, said Helia Arias.”

Post press note: Helia Arias’ mother and Julissa’s grandmother died on September 27, 2007.