Jeffrey E. Martin of Levin & Perconti recently settled a medical malpractice case for $4.5 million on behalf of 25-year-old Heather Kornick of Elk Grove Village, Ill. Heather’s physician failed to diagnose her adrenal cancer in a timely manner, allowing her cancer to spread and result in a significant delay in treatment.

In 2006, 19-year-old Heather entered her sophomore year at the University of Indiana. She was worried because over the summer, she gained weight and had an abnormal menstrual cycle, so she met with a reproductive endocrinologist. After a brief consultation, the physician diagnosed Heather with polycystic ovary syndrome (PCOS) without examining her or considering other potential causes of her symptoms. Despite being treated for over 14 months for PCOS, Heather’s symptoms did not improve. When she sought a second opinion in March 2008, she was diagnosed with Cushing’s syndrome, an overproduction of cortisol by the adrenal glands, which, in Heather’s case, was brought on by an adrenal gland tumor.

Soon after this diagnosis, Heather had surgery to remove her adrenal gland and the tumor. Surgeons also found 10 small nodules in her lungs, indicating that the cancer had metastasized (spread beyond her adrenal gland). Additionally, surgeons removed one of Heather’s kidneys that was damaged because the adrenal tumor interrupted its blood supply.

After learning of her misdiagnosis, Heather contacted Levin & Perconti. During the course of his investigation, Jeff Martin spoke to Heather’s oncologists, who believed that if Heather had received an earlier diagnosis, the tumor could have been removed and prevented from spreading.

“Heather responded really well to her treatments from the start,” said Jeff. “Her physicians felt that since she responded better than most patients, she could have led a normal life if she had been diagnosed [earlier] and the tumor had been removed before it metastasized. Unfortunately, the cancer spread, and that has become her biggest battle.”

The lawsuit alleged that when presented with her symptoms, the defendant endocrinologist violated the standard of care by not screening Heather for Cushing’s syndrome. Had he come to this diagnosis, the standard of care would have led him to perform a CT scan, which would have revealed Heather’s adrenal tumor. The suit also alleged that the doctor’s office staff did not convey to the doctor complete factual information regarding the symptoms reported by Heather’s mother.

Continued on page 5
Steve Levin and Margaret Battersby Black recently announced two settlements against ManorCare Health Services – South Holland, a nursing home on Chicago’s South Side. In the first case, our client received $1 million for the death of her aunt Jane*. The second case was settled for $750,000 for the family of a former resident named Betty*.

“Jane and Betty both developed serious pressure sores while living at the facility,” said Steve. “We believe their injuries were caused because the facility did not have enough staff, and the staff they did have were not competent.

“A former employee reached out to our firm. She described appalling working conditions at the nursing home. She told us the home was understaffed, and that the wound care nurse was a drug addict who used drugs during the workday. She also told us that staff members were instructed not to complain to the Illinois Department of Public Health.” Further, Steve added, “She described how residents were not repositioned to relieve pressure to their bodies, a process known to prevent bed sores, and how residents were left lying in their own waste because there were not enough staff members to change them.”

Betty and Jane’s families witnessed the terrible conditions at ManorCare South Holland and filed suits to make a public statement about the condition of this nursing home and other nursing homes throughout the Chicagoland area.

“Our clients’ families wanted to hold the facility responsible for their loved ones’ injuries, but also wanted to shed light on the facility’s conditions to protect current and future residents,” said Margaret.

Steve and Margaret discovered false charting in Jane’s nursing home record, including a nurse’s entries on a day when Jane was not even at the nursing home. In this case, the false charting either occurred because a nurse was intentionally or deliberately lying about care she could not have possibly provided in an effort to “cover her tracks,” or she was stretched too thin to appropriately document the proper care and treatment required. This situation brought to light how inadequate staff and resources made it impossible for employees of ManorCare South Holland to provide appropriate care to the victims, and as a result, Betty and Jane unnecessarily suffered agonizing pain in their final days.

The Illinois Department of Health’s website features a section that monitors nursing homes. A current listing reveals that ManorCare South Holland has a history of violations. Levin & Perconti has successfully represented other families in lawsuits against the facility, recovering substantial monetary settlements.

“This case exemplifies the necessity of families of nursing home residents to closely monitor their loved ones’ condition and care,” said Steve. “You cannot simply accept the facility’s representations that they will provide care. You must monitor and question. At the first sign of abuse and neglect, feel free to contact us to discuss your rights.”

*Names have been changed
John Perconti and Patricia Gifford recently settled a medical malpractice case against a Chicago hospital for $970,000 on behalf of the family of a 14-month-old girl who died from pneumococcal meningitis.

On March 11, 2006, our client’s daughter developed a fever and was vomiting, and her pediatrician diagnosed her with a stomach virus. Three days later, her mother took her to the emergency room of the defendant hospital where staff performed blood work and gave her IV fluids and over-the-counter medication. The child’s condition improved, so she was discharged home, and staff instructed her mother to bring her back to the emergency room if her condition worsened.

That evening, the lab notified emergency room staff that the child’s blood culture came back positive for a bacterial infection. An emergency room physician called our client to check on her daughter, but did not tell her about the test results or advise her to bring her daughter back to the emergency room immediately for treatment.

Early in the morning of March 15, our client’s daughter became unresponsive, and she returned to the defendant hospital’s emergency room. Doctors performed a spinal tap, which revealed that our client’s daughter had pneumococcal meningitis. Despite finally having a diagnosis, it came too late. As a result of her infection going untreated, she suffered severe brain damage and died on March 17.

Our client came to us seeking answers surrounding her daughter’s death. Levin & Perconti filed a lawsuit on her behalf in December 2007, and in 2011 the hospital agreed to settle the case for $970,000.

“If the emergency room physician followed the standard of care and instructed our client to bring her daughter back to the hospital for treatment, there is a very good chance that they may have been able to stop the spread of the bacteria to her brain,” said John.

“This tragic incident is an example of how avoidable medical mistakes can have devastating results,” added Patricia. “When families entrust their loved ones to the care of physicians, nurses and hospitals, they never imagine that provider error may worsen their condition or cause serious injury or even death. Every year, over 98,000 people are killed in the United States by preventable medical error, and many more go unreported. Providers must be held responsible for their actions, or inactions, so that others do not suffer similar losses.”

Recently Filed Cases

Z.K. v. Walgreens (Prescription Error) Our client was prescribed medication to treat hand tremors, but the defendant pharmacy erroneously gave him a powerful steroid with a similar name. As a result of taking the wrong medication, he developed Cushing’s syndrome, which caused his overall condition to decline significantly.

H.C. for L.M. v. Our Lady of the Resurrection Medical Center, et al. (Medical Malpractice/Wrongful Death) Our client’s 33-year-old daughter was admitted to the hospital with pneumonia. During her stay, hospital staff failed to properly monitor her blood glucose levels or administer insulin, and she suffered severe brain damage as a result of hypoglycemia.

C.C. for B.C. v. Bromenn Hospital (Medical Negligence) Our 35-year-old client died when hospital staff dislodged her tracheostomy tube, depriving her of oxygen for over 15 minutes.

S.M. v. Chase Management (Slip & Fall) Our client fell in a parking lot because an unnatural accumulation of snow and ice was not appropriately cleared to allow foot traffic. She broke her ankle and required surgery.

T.O. v. J.M. (Car Accident) Our client suffered spinal cord injuries when the defendant driver failed to yield to our client’s vehicle and collided with him at a busy Chicago intersection.

In recent months, Levin & Perconti has also filed a number of DePuy hip replacement recall cases for individuals. In these cases, our clients received defective DePuy hip implants that were later recalled by the manufacturer. As a result of faulty design, many of our clients required revision surgery to replace the recalled hip implant.

Attorneys John Perconti and Steven Levin
Nursing Home Negligence Case Settles for Policy Limits

John Perconti and Patricia Gifford recently settled a nursing home case on behalf of the daughter of a former nursing home resident who died as a result of negligence. The case was settled against Ballard Nursing Home for $861,788.46, the remainder of the balance on the nursing home’s $1 million insurance policy.

On October 17, 2008, our client’s father was admitted to Ballard, located in Des Plaines, Ill. He had lived in Louisiana for most of his life, but relocated to Chicago after Hurricane Katrina. At the time of his admission to the facility, our client’s family was rebuilding their home in Louisiana, and he planned to move back to live with them when the home was rebuilt.

Our client’s father suffered from COPD and had a tracheostomy tube. A tracheostomy tube is a surgical opening in the trachea to make breathing easier and enable health care providers to remove secretions from a person’s lungs.

When our client’s father entered Ballard, his tracheostomy tube was intact. The following day, the tube became dislodged, cutting off his oxygen flow. A respiratory therapist caring for him tried to restore his breathing using a handheld resuscitation device instead of repositioning the tube or calling 911. After almost 30 minutes of trying to resuscitate him manually, she called other staff members to help. When they realized the severity of his condition, they finally called 911; however, their efforts were too late. Our client’s father had already suffocated because the therapist did not assess his condition and treat him in a timely manner. Shortly after his death, the therapist was fired.

In March 2010, our firm filed a lawsuit for the victim’s family. “Liability was clear in this case,” said John. “We made a demand of $1 million—the full amount of the facility’s policy.

Family Awarded Nearly $1 Million in Nursing Home Negligence Case

The family of a 34-year-old woman who died under the care of a South Side Chicago nursing home reached a wrongful death settlement with the facility and her attending physician for nearly $1 million. Steve Levin and Jordan Powell represented the family in the lawsuit.

Iris* was admitted to the facility after suffering a stroke. To prevent further strokes, she was given a medication to thin her blood. However, she had a history of internal bleeding, so the staff had to monitor her blood to make sure it did not become too thin. The nursing staff failed to notice when her blood became too thin, and failed to notify her physician. In fact, the doctor assigned to her by the nursing home never visited Iris. As a result of this negligence, Iris bled to death.

“Iris was there for a short stay to be treated with an antibiotic,” said her sister Vettina. “She was only supposed to be there for a few weeks. However, during Iris’s stay at the nursing home, she was never seen by a doctor, and no one from the nursing home called my mother when my sister passed away.”

“We had previously contacted Levin & Perconti and were still in contact with the firm when Iris was admitted to the facility,” added Vettina. “When she passed, we called Jordan to alert him of the news, and he immediately helped us by telling us what steps we needed to take.”

Levin & Perconti filed a lawsuit on behalf of Iris’s family in late 2008 against the facility and our client’s physician, alleging that the physician’s failure to evaluate our client and the staff’s failure to communicate abnormal lab values to the physician caused her untimely death. In March, the case settled for just over $999,000.

“Iris’s case is a clear example of how poor communication in nursing homes can be fatal,” said Jordan. “When a resident’s condition changes, nursing home staff must alert the resident’s attending physician who can then determine how to address the change.”

“Unfortunately, poor communication in nursing homes is all too common, and our firm has represented a number of people who have died because of these avoidable mistakes,” said Steve. “Like other forms of nursing home negligence, lack of proper communication is often the result of short-staffing and poor training in nursing homes. When nursing homes are understaffed, employees are stretched too thin, and this increases the likelihood of miscommunication.”

“Now that the case has been resolved, we feel that Iris has received justice,” said Vettina. “We now have some closure, though it will never bring Iris back. We really appreciate the firm’s efforts and time that went into getting justice for my sister. Jordan did an excellent job and we will always be grateful to him for that. He was always there to answer any questions that we had … no questions were off limits and he always kept us abreast on the progression of the case. He felt more like a family member than the attorney who represented our family.”

*Last names omitted

Like many nursing homes, Ballard had an eroding policy, which means that defense fees and costs are charged against the policy’s coverage limits. When that happens, there is less money to pay injured victims and their families. However, this motivates facilities to settle, because if the case goes to trial and the payout exceeds the policy limit, the nursing home owners, not their insurance company, are responsible for any judgment in excess of the remaining insurance monies available.”

“Our client’s father survived Hurricane Katrina and its aftermath, only to die due to nursing home neglect,” noted John. “His family took action to ensure that both the therapist and facility were held responsible for the preventable mistakes that tragically took his life.”
SETTLEMENT

Cont. from pg. 1

Since her initial surgery four years ago, Heather has undergone numerous rounds of chemotherapy to prevent her cancer from progressing or spreading. “Heather is a fighter,” said Jeff. “Not only is she fighting to stay well, but she is also fighting to prevent this from happening to anyone else.”

This misdiagnosis has affected Heather physically and personally. Chemotherapy treatments cause her to suffer hair loss, fatigue, poor balance, interrupted sleep and bloody noses. She aspired to become a lobbyist after college, but her exhaustion and rigorous treatment schedule make it difficult for her to work even a couple of days a week. Heather also dreamed of getting married and becoming a mother, but due to her condition, she will never be able to have children.

“In many types of cancer, an early diagnosis can allow for a patient to lead a normal life,” added Jeff. “That is why it is crucial for physicians to find it in the early stages. Unfortunately, all too often, our firm handles cases for victims of a delayed or misdiagnosis of cancer. These errors rob cancer patients of time and opportunities to get help. In Heather’s case, her endocrinologist’s errors cost her 14 valuable months, which could have been spent on proper treatment.”

In 2011, Heather’s case settled for $4.5 million. This settlement will help Heather pay for past medical bills, and will allow her to continue to receive the most innovative treatments to battle the spread of her cancer. She has dreamed of living independently since she graduated from college, and recently moved into a new home on her own. In between trips to the University of Michigan for chemotherapy and to meet with her oncologists, Heather continues to volunteer her time helping children, and hopes to one day be stable enough to work full time.

“I am grateful for what Jeff Martin did and how he treated me as a client,” said Heather. “Unlike the defendant physician, Jeff listened to me and took what I had to say seriously. I also appreciate how Jeff listened to my mother and always kept us apprised of the status of my case every step of the way. He was truly involved with my case, always accessible, and at all times I felt like he was not just treating me as a client, but as a friend.”

Recent Nursing Home Settlements

In the past year, our attorneys had a number of noteworthy nursing home abuse and neglect settlements. We recovered almost $25 million in nursing home cases for clients.

K.M. for M.N. v. ManorCare – South Holland ........................................ $1,000,000
V.N. for E.N. v. All Faith Pavilion .......................................................... $1,000,000
R.F. for I.F. v. Confidential Nursing Home ........................................... $999,225
E.A. for R.A. v. Confidential Nursing Home .......................................... $919,974
T.K. for J.K. v. Renaissance Park South ................................................ $917,912
I.L. for R.L. v. Lincolnwood Place .......................................................... $900,000
K.P. for W.P. v. Ballard Nursing Center .............................................. $861,788
H.B. for E.B. v. Confidential Nursing Home ........................................ $825,000
E.L. for E.M. v. Confidential North Shore Nursing Home ...................... $820,000
M.W. for E.D. v. Clark Manor Convalescent Center ............................. $800,000
M.B. for E.S. v. ManorCare – South Holland ....................................... $750,000
M.I. for C.Z. v. Hampton Plaza Nursing & Rehabilitation Center ......... $675,000
D.W. for P.S. v. All Faith Pavilion .......................................................... $650,000
Levin & Perconti Attorney News

Steve Levin, John Perconti, Susan Novosad and Jeff Martin were included in the Illinois Super Lawyers 2012 list. Mike Bonamarte, Patricia Gifford, Jordan Powell and Margaret Battersby Black were selected for inclusion in Super Lawyers—Rising Stars Edition 2012.

Steve Levin was nominated to serve on the Illinois Trial Lawyers Association’s (ITLA) 2012 Nominating Committee.

On February 20, Margaret Battersby Black spoke about “Special Issues in Catastrophic Cases” at the ITLA Liens & Settlements Seminar at the Westin River North in Chicago.

Susan Novosad discussed “Party Depositions” at the ITLA-sponsored Everything You Need to Know About Motor Vehicle Accident Cases Seminar in Oak Brook on March 23.

On March 23, Steve Levin presented at the IICLE Pretrial Preparation in Civil Practice course and spoke about “Nursing Home Litigation for the Elder Law Practitioner” at the Elder Law Practice in the Circuit Court of Cook County Seminar.

Susan Novosad presented “Preparing for Trial” at The John Marshall Law School Center for Advocacy and Dispute Resolution on April 19.

Marvet M. Sweis was recently appointed as the Arab-American Bar Association of Illinois Representative for the Council of Arab Organizations (CAO) in Chicago.

Ryan Nolte coached the University of Illinois at Chicago’s Undergraduate Mock Trial Team to its 16th consecutive National Tournament appearance. The team finished as one of the top 48 teams out of more than 600 across the country.


Mike Bonamarte was elected to serve as secretary of the Justinian Society of Lawyers.

Steve Levin and John Perconti were both selected for inclusion in the 2012 Leading Lawyers Network.

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