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**Illinois Department of Public Health cites Riverside Foundation for lack of supervision that resulted in the choking death of 32-year-old resident —lawsuit settles for \$800,000**

CHICAGO, IL – Lawrence B. Finn of the Chicago-based law firm Levin & Perconti recently settled a lawsuit for \$800,000 for a case that was pending in the Circuit Court of Lake County, Illinois against Riverside Foundation (Lincolnshire, Illinois) on behalf of Inna and Mikhail Polyakov (Des Plaines) concerning the November 2004 choking death of their daughter, 32-year-old Nelli Polyakov. Riverside was also cited by the Illinois Department of Public Health (IDPH) for this incident.

Nelli Polyakov was diagnosed with mental retardation and mild cerebral palsy when she was two years old. Nelli lived with her family throughout high school (Main East) and for a year thereafter while participating in a workshop. Her parents entrusted Nelli to Riverside Foundation when they could not simultaneously meet the needs of Nelli and their aging parents. Riverside Foundation is licensed by the Illinois Department of Public Health as an Intermediate Care Facility providing residential care, programs and services to approximately 100 adults with developmental disabilities. Nelli was a resident of Riverside Foundation from November 3, 1994 until November 3, 2004.

In addition to her developmental disability, Nelli was also diagnosed with an Obsessive Compulsive Disorder which manifested itself in a behavior of stealing food items and stuffing them whole into her mouth. As early as November 2003, this exact behavior was recognized by Riverside's Interdisciplinary Team members as posing a serious risk of choking and potential

death. Beginning in June 2004, Nelli's risky food behaviors began escalating in frequency. On September 24, 2004, Nelli stole a piece of toast with cheese from another resident's plate, stuffed it in her mouth and choked - turning blue and requiring staff to apply the Heimlich maneuver to restore her respiration.

After the choking episode, Riverside alerted its staff of the need to provide one-on-one supervision to Nelli at each meal in the dining room, and to escort Nelli out of the dining room at the conclusion of each meal closing the doors behind them. No one at Riverside, however, contemplated or addressed whether Nelli should be allowed to attend outings outside the facility that involved food, or if so, what plan of care should be followed on these outings.

On November 3, 2004, two Riverside staff members took Nelli and seven other residents to a pizza restaurant for a dinner outing. At the conclusion of the meal, one of the staff members left the restaurant, leaving the remaining staff member alone with Nelli and several other residents, one of whom needed assistance walking. Despite the presence of a single staff member, Nelli grabbed a piece of pizza from a resident's plate and stuffed the entire piece into her mouth. Nelli choked to death on the pizza as attempts to perform the Heimlich maneuver failed.

IDPH investigated the incident and concluded that Riverside violated its obligation to Nelli by failing to have a program in place specifically addressing her food theft and stuffing behavior.

Attorney Lawrence Finn stated: "Riverside was licensed under part 350 of Title 77 of the Illinois Administrative Code governing intermediate care facilities for people, like Nelli Polyakov, who are developmentally disabled. Nelli was known to engage in food related behaviors that posed a significant risk of choking and death. Riverside failed to develop and

carry out a plan to ensure Nelli's safety when eating meals outside of their facility. The individual care provider assigned to provide one-on-one supervision to Nelli at the pizza restaurant failed to focus on Nelli's care and well-being. The failure to provide appropriate supervision in a restaurant for someone known to steal and stuff food in their mouths was like allowing an infant access to small toys without appropriate supervision – the risk of death by choking was considerable.”