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## **Cook County Jury Awards Record \$2.9 Million Verdict for the death of a 57-year old woman in Nursing Home**

CHICAGO, IL – On April 26, 2001, 57-old -year old Ana Carrasco was hopeful. She beat her cancer and was looking forward to going home with her daughter, Sheila. Tragically, as Ana’s family anxiously awaited her arrival, Ana began to struggle for breath until she was no longer able to breathe. During the next hours and days she would suffer respiratory failure, coma and ultimately; brain death. In other words, Ana Carrasco died from suffocation. How could this happen to Ana in a residential health care facility responsible for her care?

Steve Levin of the Chicago based Law Firm, Levin and Perconti explained how this tragedy occurred, “Ana Carrasco had been admitted for a two-week short-term rehabilitation stay to Manor Care Health Services in Homewood, Illinois to condition her in the use of a tracheostomy tube, a new medical device that was inserted to assist in Ana’s breathing. While the radiation used to treat Ana’s epiglottal cancer was successful in curing her cancer, a side effect was a buildup of scar tissue in her throat, narrowing her breathing airway and necessitating the insertion of a tracheostomy tube. Ana was ready to face the challenge of adjusting to life with a trach tube as her primary airway.”

During Ana's two-week prescribed stay, the staff at Manor Care was responsible for proper care of Ana's trach so that she could breathe. Proper care entails cleaning and suctioning the tube three times daily to avoid obstructions caused by debris and mucous. During Ana's five-day stay at the defendant's facility, the trach tube was suctioned only two out of the required fifteen times and cleaned one out of the required fifteen. The lack of care was due in large part to inadequate staffing, a common condition plaguing nursing homes across the state and country. The staff also failed to give Ana medications prescribed to loosen and prevent build up of mucous and secretions. After only five days under the care of Manor Care, Ana's tracheostomy tube progressively filled up with mucous causing her to suffocate.

From the time she was admitted to Manor Care, Sheila and her mother complained several times daily about the lack of care Ana was receiving ranging from the staff's failure to provide water and ice chips to ignoring requests for bathing assistance. More often than not, Sheila tended to her mother's needs. The most troubling and frequent complaint was Ana's difficulty breathing. When this complaint was ignored, Sheila initiated the process of removing her mother from Manor Care and facilitating health care in her own home. Unfortunately, Ana's release was impeded by the complexities of setting up home health care combined with the delay in getting a doctor to sign the release order. Ana's breathing became so severe on the evening of April 30, 2001, the evening before she was scheduled to leave Manor Care, Ana prophetically told her daughter Sheila: "Get me out of here, I can't breathe. I don't get out of here I am going to die." Sheila responded: "Mom, I'm coming to get you in the morning." These were the last words the two spoke to each other.

On Friday, August 11, 2006, following a four-year battle by the victim's daughter, Sheila Albores to hold Manor Care accountable for their negligent actions, justice prevailed when a Cook County jury awarded the family \$2.9 million. After four years of contesting their conduct, the defendant in the case, Manor Care, whose parent company Healthcare and Retirement Corporation of America (Ohio), finally admitted that their negligence proximately caused the death of Ana Carrasco. Under an admitted liability law, the admission of negligence allows the defendant to withhold evidence of the negligent conduct from the jury. In this case the jury did not have the opportunity to hear any evidence pertaining to the failure in care that caused Ana Carrasco's death. The jury only heard evidence as to the manner of Ana's death, her pain and suffering and the loss suffered by Ana's surviving daughters as a result of their mother's untimely death.

Steve Levin and Mike Bonamarte of Levin & Perconti who represented the plaintiffs agreed that had the jury been able to hear the egregious and reprehensible nature of their conduct, the award may have been greater.

While Sheila finally got her day in court last Friday, her quest for justice has been ongoing. In July of 2003, Sheila testified at the Senate Finance Committee on the inadequate care at the nation's nursing homes. Sheila told her mother's story and challenged the committee with these words, "I conclude today's testimony with this statement; "My mother, Ana Carrasco, was fifty-seven years old, able to voice her complaints and concerns, and had the support of a loving family at her side while in a nursing home, and yet still faced a tragic end. If this could happen to my mother, I ask who will be the voice for patients who either cannot speak for themselves nor

have no one to speak for them? What does fate hold for them? I am here today so that no one suffers from neglect while under the care of a nursing home. ”

In her uphill battle to achieve justice for her mom’s senseless death, several attorneys refused to take Sheila’s case. However, after her passion and persistence and realizing that her mother died due to carelessness and negligence, Steve Levin of Levin & Perconti agreed to take the case. Despite the fact that the jury was not supplied with details regarding the misconduct on the part of Manor Care staff, Levin presented facts concerning Ana’s pain and suffering during the last days of her life and was awarded \$1.5 million for pain and suffering and \$118,000 in medical expenses and disability for the estate of Ana Carrasco. The jury also awarded the daughters of Ana Carrasco with \$1.36 million for loss of society for a total award of \$2.9million. In addition, Levin & Perconti will petition the court on behalf of the plaintiffs for the defendant’s payment of attorney’s fees in under the Illinois Nursing Home Care Act.

Levin added, “In a shining example of the justice system’s competence, the jury did not hesitate to punish the wrongdoers by awarding an amount commensurate with the harm caused to Ana Carrasco and her family.”

Judge Ralph Reyna presided over the matter *Albores v. Healthcare and Retirement Corporation of America*; Case # 02 L 7024 in the Court of Cook County, Law Division.

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