

# NEW MEXICO INJURY ATTORNEY BLOG

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## **Injured Child and Family Awarded \$31 Million for Birth Injuries Resulting from Medical Negligence**

An Ohio jury awarded an 8 year old and his family the largest medical malpractice award in the state's history. The 8 year old child, Leondo Stanziano, suffers from cerebral palsy as result of the medical malpractice of the hospital where he was born. The jury awarded Leondo and his family \$31 million in damages.

During his delivery in December 2000, Leondo was deprived of oxygen for 18 to 20 minutes. The oxygen deprivation caused permanent brain damage and cerebral palsy.

Cerebral palsy permanent disability involving movement control and muscle coordination disorders. In addition, it causes seizures, sensory impairments and severe cognitive limitations. It is typically the result of birth injury related brain damage. Leondo will never walk or talk and will require 24 hour care for the remainder of his life.

The lawsuit was filed on behalf of the family and Leondo against the hospital as well as the doctor for a broad range of damages for medical negligent. The suit alleged that the doctor and the hospital knew of the mother's high risk for uterine rupture but failed to properly monitor the delivery. In addition, the suit alleged the labor inducing drug Pitocin was negligently used causing hyper stimulation of the patient's uterus which ultimately did burst. Expert testimony established that the hospital's nursing was negligent in continuing Pitocin despite abnormal contraction patterns throughout labor and delivery causing enormous stress on the uterus and prior birth related incision scars.

The family's expert testified that Leondo's life expectancy would be 70 years. Based upon the 70 year life expectancy, the plaintiff's attorney asked for an award of \$2.5 million in future lost earnings and \$25.9 million in future health care costs. Remarkably, the defense countered saying Leondo would only live to be 20 due to his injuries suggesting to the jury that Leondo should be awarded only \$7000/year for medical care over the remainder of his severely shortened 20 year life span.

Apparently, the jury was not pleased with the callousness of the defense's argument. Nor were they moved by its twisted logic that somehow Leondo should receive far less for his injuries since he would soon be dead anyway as a result of the hospital's negligence. The jury did not buy the hospital's argument that its **liability** should be reduced in essence because the hospital absurdly argued Leondo had suffered greater harm than claimed by the plaintiff.

Unfortunately, many times the defense will take this position attempting to reduce human loss to a simple calculation of future medical costs and lost earnings. These are calculated just as would be an annuity. Often, this logic will carry the day at trial. They then ironically try to argue for a greatly reduced life span to minimize these damages over the life of the injured person.

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The jury in this case clearly looked past the simple mathematical formulas upon which the defense attempted to value Leondo's life, health and future. Clearly, the plaintiff's attorneys kept the focus on the human loss and out of the realm of mathematical annuities where the defense would prefer to keep the focus.

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