

# Petition

Via Fax

From the Florida offices of **Leesfield Leighton Rubio Mahfood** Trial Lawyers

**Miami:** 2350 South Dixie Highway, Miami, Florida 33133, Telephone: **(305) 854-4900 / (800) 836-6400**

**Key West:** 615½ Whitehead Street, Key West, Florida 33040, Telephone: (800) 836-6400

email: Leesfield@aol.com Internet: www.LLRM.com

## Protecting the Vulnerable

Sadly, the most vulnerable of our citizens, children and seniors, are often neglected and abused resulting in civil liability. Nursing home abuse is widespread, often involving the denial of the most basic treatment and dignity, along with medical injury. Day care institutions, schools and other youth organizations are often fertile grounds for neglect and abuse. This issue of *Petition* is dedicated to improving the quality of care in those facilities that many of us in the "sandwich generation" rely upon to take care of the young and old.



behalf of the family, filed suit in Federal court obtaining (1) a temporary restraining order, (2) reinstatement of insurance benefits, and (3) payment of substantial attorneys fees and costs for the protection of this infant.

### Neonatal Neglect - Loss of Hand

*Infant Michelle Baillou-Guy* could not fend for herself. Born prematurely, she received medical care which caused the loss of her right hand while in the neonatal unit of the hospital.

### Robert Boyers recently learned

that Michelle and her Mom who received a **\$1.5 million** settlement have settled in their new home and Baby Baillou-Guy is beginning pre-school and a new life after the auto-amputation of her right arm.

### Tragic Death of a 5-day Old Baby - Key West

*Baby Cervantes*, represented by **Ira Leesfield**, could not survive the negligence she received in a Key West hospital when they failed to aspirate meconium that was left in her lungs. She struggled for five days that unfortunately resulted in the loss of this precious child. Settlement of **\$600,000**.

### Medical Negligence - 84 Year-old Plaintiff

*Rodriguez v. John Doe Hospital*. Eighty four year-old victim of medical negligence. Mr. Rodriguez died of sepsis following defendant's failure to tie off a vessel during laparoscopy complicated by improper intravenous care. He was survived by his wife, 80. **Maria Rubio** obtained a settlement of **\$325,000**.

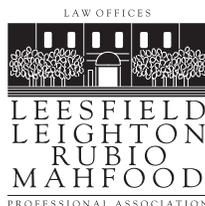
## LLRM Victories for the Vulnerable

### Wrongful Death of Brain Damaged Infant - Settlement Enforced

*Reed v. United States of America, U.S. District Court, Southern District of Florida*. **Ira Leesfield** obtained a **\$1,999,990** settlement for the improper fetal monitoring and care for Baby Benjamin Reed who died following a two year struggle for his life. The settlement was withdrawn by the United States but ultimately enforced by a District Judge in the 11<sup>th</sup> Circuit. *Reed v. U.S.A., 891 F2d 878 (11th Cir. 1990)*

### Denial of Infant's Insurance Benefits

*Ptschelinzew v. Time Insurance*. Baby Ptschelinzew was brain damaged from a swimming pool accident and needed 24-hour health care for life support. After a substantial period of providing this coverage, the defendant Time Insurance attempted to discontinue the insurance benefits which would have resulted in the ultimate death of this child. **John Leighton**, on



*Salvador v. John Doe Hospital*. Failure to diagnose ruptured vertebrae after an accident. Mrs. Salvador, 73, represented by **Maria Rubio**, went untreated for a prolonged time causing a spinal infarct. She lost total use of both legs. Settlement of **\$900,000**.

## Negligent Supervision

*Lopez v. Playing Field.* Eight year-old Javier Lopez was struck in the eye by an object thrown by another student on school playground. This resulted in permanent vision impairment of 20/200 and a settlement of **\$375,000**.

## Sexual Abuse

*S.D. v. YMCA.* Eight year-old plaintiff was sexually molested by an instructor in the after school care program he attended. Plaintiffs established numerous violations of defendant's policy including the specific rules prohibiting adults and young children from being left alone. Settlement of **\$650,000**.

*R.M. v. A & M Industries.* Thirteen year-old boy, represented by **John Leighton**, was sexually molested by employer on an after-school job. This child was entrapped by adult co-worker and brought to the employee's apartment. **\$287,500 settlement.**

*D.G. v. K-Mart.* Eight year-old girl was abducted in the bathroom of defendant's store and taken to the stock room. After a one week trial, a verdict of **\$300,000** was returned in favor of this young girl, represented by **John Leighton**. Defendants alleged that the parents had not accompanied their child to the bathroom.

## Remember When Representing Children

- Don't forget Florida Statutes 768.0415 allowing for mental pain and suffering of family members when victim is disabled.
- At an early juncture, appoint a guardian ad litem to assist in settlement negotiations and case resolution.
- Consider naming a bank or financial institution as guardian of the property for a minor or incompetent.
- Obtain insurance policies before you file suit to avoid pleading pitfalls on coverage, i.e. intentional tort exemptions.
- Evaluate nursing home cases consistent with Florida Statutes 400.011, et seq. and the damages available thereunder.
- Take the videotaped deposition or day in the life of your injured client for use at trial and preservation of testimony.
- Remember to provide support group information and encouragement to victim's family (see websites below).
- Retain counsel to establish and administer guardianship for minors and elders at the earliest juncture.
- Retain experts early to guide your discovery and even initial pleadings.

## Nursing Home Litigation Resources - Finding Help for Our Neglected Seniors

**Administration on Aging:** <http://www.aoa.dhhs.gov>

**Nursing Homes Litigation Group:**  
<http://www.atlanet.org/members/litbroch/!nursing.ht>

**National Academy of Elder Law Attorneys (NAELA):**  
<http://www.naela.com>

**Nursing Home Abuse:** [http://www.txlegal.com/Nursing\\_Home\\_Negligence.htm](http://www.txlegal.com/Nursing_Home_Negligence.htm)

**National Senior Citizens Law Center:**  
<http://www.nslc.org>

**Elder Abuse Prevention:** Information & Resource Guide: <http://www.oaktrees.org/elder/>

**Preventing Elder Abuse & Neglect:** <http://www.oag.state.tx.us/WEBSITE/CONSUMER/elderlaw.htm>

**Florida Department of Elder Affairs:**  
<http://fcn.state.fl.us/does/doesa/html>

For further information, contact:

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## Litigation Support for Sex Abuse Victims

**NCPA (National Committee to Prevent Child Abuse):** <http://www.childabuse.org/>

**American Coalition for Abuse Awareness:**  
<http://www.sover.net/~schwcof/newshead.html>

**APSAC (American Professional Society on the Abuse of Children):** <http://www.apsac.org/>

**AReASON (Association of Recovering Abuse Survivors & Offenders Network):**  
<http://www.areason.org/>

**The Center for Children + Families:**  
<http://www.kidsuccess.com/>

**CAPN (Child Abuse Prevention Network):**  
<http://child.cornell.edu/capn.html>

**National Children's Advocacy Center:**  
<http://www.ncac-hsv.org/>

**TASK (Take A Stand for Kids):** <http://www.task.org/>

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