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**REMOTE MEDIATION IS HERE TO STAY**

**LAKE SUCCESS, NY**— Our attorney Gary Nielsen successfully concluded a remote “video” mediation in May of this year, obtaining a settlement of about \$1.6 million for the family of a 76 year old Long Island man. The patient suffered an untimely and painful death just days after undergoing elective surgery on his cervical spine. He developed a painful post-operative bleed into his spine which went undiagnosed and untreated in the hospital until, two days after the surgery, it caused a stroke in his spinal cord which paralyzed him from the neck down.

The plaintiff claimed that, after his surgery, the patient suffered from extreme pain in the area of his neck which was not relieved despite large doses of narcotics. During an overnight shift, he became lethargic and his blood pressure fell. A nurse twice requested help from a surgical resident but that doctor never came, never evaluated the patient, and simply told the nurse to change his medications. The next morning, when the nursing shift changed, he was “discovered” by the incoming nurse to be unable to move his arms and legs.

In an emergency procedure, his surgeon drained the blood from his spine, but it was too late. The damage was permanent: he was paralyzed. The patient, who had been an active and loving family man before his elective surgery, was now paralyzed from the neck down. He needed a breathing tube (a mechanical ventilator) to live. He was advised that he would never walk again and that he could not survive without the ventilator. When asked if he wanted live out his life paralyzed and on life support, he graphically indicated that his preference was to die, and despite being on a breathing tube he mouthed the word “die.” The decision was made to turn off the ventilator. He died with his family around him.

Due to the Covid-19 pandemic, the out-of-court mediation, which had originally been scheduled to be in-person with all parties present, took place via video-conference on Zoom. Hospital officials and lawyers, the mediator, Mr. Nielsen and his client all participated from their homes. The mediator carefully controlled the conference settings so that she could work with the parties individually. While Mr. Nielsen had been skeptical of conducting the mediation remotely, he says that the process worked smoothly and he gives it high marks. “We will be seeing more and more of this,” he noted, “even if things eventually go back to ‘normal.’ It looks like remote mediation is here to stay.”

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