



**Lipsitz Green
Scime Cambria** LLP
ATTORNEYS AT LAW

Laraine Kelley



Laraine Kelley is widely recognized as one of the region's preeminent attorneys. She has decades of experience successfully representing victims of medical malpractice and other catastrophic personal injuries. Numerous attorneys refer their complex litigation matters to Ms. Kelley due to her experience, trial skill, and track record of results.

Ms. Kelley has been named "Lawyer of the Year" by *The Best Lawyers in America* for Medical Malpractice Law, Personal Injury Litigation, and Product Liability Litigation. She has received additional peer recognition including being named to Super Lawyers, Legal Elite of WNY and has received an AV Peer Review Rating from Martindale-Hubbell, signifying the highest level of professional excellence for legal knowledge and ethical standards since 1995.

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Joseph J. Manna



Over his 25-year career, Joseph Manna has distinguished himself as a tenacious trial attorney who aggressively pursues and obtains the best possible results for his clients. Joe's legal skill and track record of results has led peers to name him to some of the legal industry's most prestigious recognitions. He has been selected by his peers for inclusion in *The Best Lawyers in America*, *Super Lawyers*, *America's Top 100 Attorneys-Lifetime Achievement Membership*, the *National Trial Lawyers Top 100*, *Legal Elite of WNY*, and named "Lawyer of the Year" by *The Best Lawyers in America* for Litigation-Construction.

Joe's reputation as a leading medical negligence trial lawyer has led physicians, nurses and fellow attorneys, as well as their families, to frequently retain him to pursue medical malpractice claims on their behalf. Joe brings unique insight and perspective to enhance the fight for his clients due to his previous experience litigating on the defense side of medical malpractice matters. He has recovered tens of millions of dollars for his clients.

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SPECIAL ALERT ON DEVELOPMENTS IN

Birth Injury Law

Settlement for Child with Cerebral Palsy Valued at Over \$10 Million

Attorneys Laraine Kelley and Joe Manna recently obtained a settlement valued at over \$10,000,000 for a child injured at birth. The birth injury caused the child to suffer brain damage, which resulted in cerebral palsy (CP).

Settlement for Avoidable Cerebral Palsy

The settlement in this matter was negotiated with the hospital and obstetrician involved in the birth injury. Insurance carriers paid the settlement, recognizing that the child's cerebral palsy injuries were caused by avoidable oxygen deprivation during labor and delivery.

Future Medical Expenses

As part of the settlement, the child's future medical expenses, which were projected to be many millions of dollars, will be paid for by New York's Medical Indemnity Fund (MIF). The MIF pays all medical expenses incurred by neurologically injured children if a court finds that they were injured at birth and directs that the child be covered by the program.

Is Cerebral Palsy Preventable?

Cerebral Palsy can occur in otherwise healthy children as a result of mismanagement by the doctor and/or medical staff during labor and delivery. Statistics show that approximately 10% of CP injuries are caused by healthcare provider negligence and medical malpractice.

Thus, CP is avoidable in a substantial number of children who develop it. Often, children with CP would have been born as normal, healthy children if healthcare providers recognized and reacted to signs of fetal distress in a timely fashion. Too often, labor and delivery nurses and doctors do not take timely measures to avoid oxygen deprivation during birth, resulting in catastrophic consequences.

How Do I Find Out If My Child's Cerebral Palsy Was Preventable?

Treating healthcare providers rarely volunteer that a child's CP was preventable. Most parents need an experienced birth injury lawyer, who can guide them through the process of answering this important question. A family lawyer or general practitioner will

be unable to reliably help because the area is complex and requires specialized knowledge and experience.

Experienced birth injury lawyers have access to a team of expert physicians with specialized knowledge in obstetrics and neurological injuries. That medical team will be able to review your child's medical records and give an accurate and reliable opinion about whether the injury could have been avoided. Together, a birth injury lawyer and his or her medical experts will be able to answer all questions about whether malpractice caused your child to suffer from CP.

How Long Does A Cerebral Palsy Court Case Take?

CP cases take a long time to be resolved in Court. There are many reasons why this is so:

- Medical records must be gathered and reviewed
- Experts need sufficient time to review them and consult with counsel
- Legal papers must be prepared, filed and served
- Doctors and nurses must be questioned under oath
- There are long waits for court dates in New York

Delays, however, can work in favor of your child. Because of the nature of CP, a child's injuries are not always immediately known. As the child develops, new problems can be recognized and addressed in the claim. Thus, the lengthy process allows parents and counsel to plan for the future, and to accurately predict the compensation the child will need to help them cope with CP related challenges.

What Will the Settlement Be Like?

Parents sometimes feel awkward talking about money. The reality is, however, that money can help lessen a child's physical and mental challenges. For example, settlement money can be used to buy the best available medical equipment, which will not be covered by insurance. It can be used to modify your home as necessary to help your child with mobility and other challenges. Money can help give your child liberty and freedom from the challenges CP can impose. So, asking this question is important and prudent.

The settlement amount is a figure based on the lifetime costs of your child's care plus full justice for the physical and emotional challenges healthcare provider negligence imposed upon them. Medical costs are calculated in a document called a Life Care Plan. Your family will work with a group of experts to take all of your child's needs into consideration. The experts then create a list of the therapies, medications, treatments and aids your child may need at various stages of his or her life. The costs of these needs are part of the plan. Depending on the severity of your child's injuries, medical costs can reach into the multimillion dollar range. Additionally, non-economic damages are also part of the calculus. The law requires that if someone takes away physical and emotional abilities through negligence, that wrongdoer must replace it with full justice in the form of monetary compensation. Thus, this amount will be based on a range of factors, including what has been taken away from your child.

Get Answers to Your Cerebral Palsy Legal Questions

If you have cerebral palsy legal questions, contact Laraine Kelley or Joe Manna via e-mail at lkelly@lglaw.com and jmanna@lglaw.com or call (716) LAW-3333. Attorneys Laraine Kelley and Joe Manna offer a free case review to help you sort through your questions and find the answers you need. Furthermore, if your situation constitutes medical malpractice, we can help build a claim for your child so they can be financially protected in the future.