

# **Caesar & Napoli recovers more than \$30,000,000.00 for family of teenager who suffered irreversible brain damage after major NYC hospital botched emergency lifesaving procedure**

The family of a teenager who went into a permanent vegetative state after being deprived of oxygen for nearly 20 minutes while recovering from surgery at Lenox Hill Hospital has settled a personal injury lawsuit for over thirty million dollars.

## **Background Facts**

In May 2005, David H., 16, was admitted to Lenox Hill Hospital to correct a congenital jaw deformity known as “Goldenhars Syndrome.” The rare condition, which afflicts one in 500,000 children, leaves newborns with underdeveloped facial features.

David’s parents chose Dr. Stuart Super, chief of the Department of Oral and Maxillofacial Surgery at Lenox Hill, to operate on their son.

The surgery, which required breaking David’s jaw, correcting the deformity and then wiring his jaw shut, went off without a hitch. It was when David was placed in a step-down unit — a unit that provides interim care for patients recovering from surgery — that things went terribly wrong. The unit continuously relays critical information about patients to a nurse’s station so that measures can be taken should an emergency arise.

On two occasions, David’s father, , who was spending the night in the hospital, heard what sounded like an alarm coming from the monitoring device by his son’s bedside. When no nurse responded to the alarm, Mr. H went into the hallway to call for help. Both times, an aide came into the room and turned off the alarm. However, no follow-up examination was conducted.

Shortly after David was given morphine to relieve his distress, he started to choke. Choking is a common risk when patients have their jaw wired shut, so common that David’s surgeon had written in his chart in capital letters that a wire cutter must be placed by David’s bed in case of an emergency.

While his son turned blue, Mr. H screamed for help. David’s father had to watch helplessly while his son struggled for air. The nurse who arrived ten minutes later claimed that no alarms went off at the nursing station. After she confirmed that David had a catastrophically low oxygen level, an emergency code blue was called.

But instead of immediately cutting the steel wires sealing David’s jaw, a resuscitation and life support team tried to force air into his windpipe through the use of a rubber ambu-bag. When the wires sealing his jaw shut were finally cut and his jaw pried open to permit the insertion of a tube into his airway he had already been deprived of oxygen for approximately twenty minutes and was irreversibly brain damaged.

To make matters worse, the hospital either lost the critical hospital record documenting the events that took place during the emergency intervention, or never prepared this required document in the first place.

David is now in a permanent vegetative state. He lives in the brain injury unit of a health care facility in Queens, where he receives around-the-clock care. He will probably have to stay there for the rest of his life, which could cost tens of millions of dollars.

In February, 2011, after five years of litigation, Caesar & Napoli reached an agreement with Lenox Hill Hospital and recovered \$6.8 million in the case. A significant portion of the proceeds shall be placed into a special trust fund for David's benefit. Annuities shall be purchased and the trust will receive a steady, and increasing, flow of income for at least thirty (30) years or the balance of David's life, whichever is longer, generating a lifetime recovery well in excess of thirty (30) million dollars.

When David's mother asked me about settling the lawsuit that my firm brought against the hospital, she asked me the heart-breaking question, "Will money ever bring my son back?" The sad truth is that it won't. But at least David's parents can now have the peace of mind of knowing that their son will have the best possible care for the rest of his life. They have the satisfaction of knowing that the hospital took responsibility for the terrible negligence committed by its staff. And the settlement will ensure that the hospital, not taxpayers, bears the cost of David's care.

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