

## suits & deals

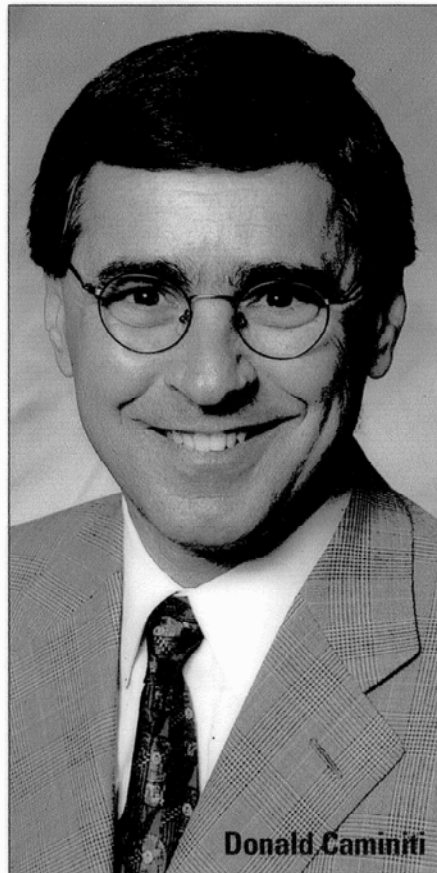
### Suit Over Failure To Treat Settles For \$2.7 Million in Bergen County

**N***elson v. Unnamed Physician:* A Kearny woman agreed on Oct. 16 to accept \$2.7 million to settle a suit alleging that she was left a quadriplegic by a physician's failure to treat a neck injury suffered in a fall down the stairs at her home.

After the fall, on March 18, 1997, Madeline Nelson, then 60, was taken to West Hudson Hospital where an emergency room doctor examined her and a CAT scan and X-rays were taken of her neck. Despite complaints of pain and numbness and her inability to walk unassisted, Nelson was released, says her lawyer, **Donald Caminiti**, a partner with **Breslin and Breslin** in Hackensack.

During the next few days, Nelson progressively lost the ability to move and became incontinent. Her husband called her primary medical-care facility, which ordered pain medication and told him the symptoms were to be expected. Caminiti says that none of the group's doctors spoke directly with Nelson or asked to examine her. The facility's lawyer, **Mollie O'Brien**, says the doctors told Nelson's husband that if she was uncomfortable, he should bring her in but that he did not.

The doctors arranged for a nursing service to send someone to evaluate Nelson's need for a commode and a hospital bed. The nurse who visited Nelson on March 21 noted her immobility and numbness but did not notify the doctors,



Donald Caminiti

says Caminiti. Her condition got worse, and on March 24 she was taken by ambulance to Passaic General Hospital, where an MRI showed she had a spinal cord contusion of the neck.

Nelson underwent four operations in the next month: a partial cervical corpectomy to stabilize her spine; a fusion; an

iliac crest bone graft; and a tracheotomy for breathing and feeding tubes.

Since then, Nelson has been a C-5 quadriplegic, who is bedridden, unable to speak and in need of a respirator and round-the-clock care, since the tracheotomy tube requires frequent suctioning and the gastrostomy tube must be irrigated daily, says Caminiti. Nelson's husband, a factory supervisor who earned \$4,800 a month, took early retirement to care for her.

The Nelsons filed suit in November 1998 against the emergency room doctor, the radiologist, the nursing service, the medical care facility and three of its doctors. Superior Court Judge **Peter Doyno** in Hackensack was assigned the case, and discovery was nearing completion when it settled.

The radiologist, insured by the Medical Inter-Insurance Exchange Group under a \$3 million policy, paid \$1 million toward the \$2.7 million settlement. The emergency room physician, who had \$2 million in coverage under policies with Princeton Insurance and Lexington Insurance, settled for \$1.25 million.

The \$450,000 balance came from the nursing service's \$1 million policy with Zurich American Insurance. The doctors' group and its three doctors did not pay.

**Howard Mankoff**, a partner with Livingston's **Marshall, Dennehy, Warner, Coleman and Goggin**, represents the nursing service.

O'Brien, a partner with Springfield's **Wahrenberger & O'Brien**, also represents two of the doctors. **Rachel Schwartz**, an associate with **Giblin & Combs** in Morristown, represents the other. **Lauren O'Neill**, a partner with Roseland's **Post, Polak, Goodsell & MacNeill**, represents the radiologist. The emergency room doctor's lawyer is **Rowena Duran**, a partner with **Duran & Pandos** in Mountainside.

— *By Mary P. Gallagher*