

Settlement nets \$3.5M for couple

■ Parents reach accord with hospital and physicians in case of infant born with rare genetic disorder undetected by routine testing

BY CHAU LAM
STAFF WRITER

A Hicksville couple who sued Winthrop-University Hospital in Mineola, alleging that a delay by its doctors in diagnosing their infant daughter with a rare genetic disorder in 1999 caused her brain damage, yesterday settled the matter for \$3.5 million.

Alexa Cardone, now 5, has propionic acidemia, an inherited disease that prevents the body from processing certain proteins and lipids (fats) properly. The condition, which usually appears in early infancy, occurs in about 1 in 150,000 live births, said Steven E. North of Manhattan, the attorney for the Cardone family.

On Aug. 5, 1999, when Alexa was about 3 weeks old, she was vomiting and couldn't keep food down. Her parents, Nicole and Kenneth Cardone, took her to Winthrop's emergency room and she was admitted.

John Broder, a hospital spokesman, said doctors performed a battery of tests to rule out or confirm common illness in babies before they tested Alexa for rare diseases.

"Winthrop fully believes that the Winthrop specialists named in the settlement did as much as was humanly and professionally possible in diagnosing this rare genetic disorder," Broder said yesterday in a news release. He said the defendants all decided to settle because of the case's complexity and "the emotionally charged environment" of a courtroom.

On Aug. 18, 1999, nearly two weeks after she was hospitalized, doctors determined that Alexa had propionic acidemia. Had doctors made that diagnosis sooner with a simple urine test, North said, Alexa would not have ended up with permanent neurological disorder.

Alexa is able to walk with a slow gait, but as a practical matter she uses a wheelchair, North said. He said she has the mental capacity of a 2-year-old, adding, "She'll always be impaired and will never be able to manage her own affairs."

Late last year, New York passed a law requiring doctors to test all newborns for rare diseases.

Besides Winthrop, the Cardones sued three doctors: Morris Angulo, a specialist in genetic and metabolic disorders; and Carlos Montoya and Laura Nimkoff, who were in charge of Alexa's day-to-day care. They also sued their pediatrician, Maurice Gunsberger, who is not affiliated with Winthrop.

Nimkoff's attorney, Donald Henderson of Carle Place, said Nimkoff's first contact with Alexa occurred on Aug. 9 and she relied on Angulo's expertise. "Her role was indeed minimal," Henderson said.

Montoya's lawyer, Peter C. Kopff of Manhattan, said his client worked with other doctors to rule out common diseases. Attorneys for Angulo and Gunsberger declined to comment.

The settlement was reached on the day when opening statements were set to begin before State Supreme Court Justice F. Dana Winslow in Mineola.