

Corboy & Demetrio Secures Settlement in Minee-Subee Day Care Center Lawsuit

March 2010

Minee-Subee in the Park, Inc., has agreed to settle the wrongful death case of toddler Benjamin Kingan killed at its day care center in Lincolnshire, Illinois, for \$2 million, the full extent of its insurance coverage. Corboy & Demetrio personal injury lawyers Thomas Demetrio and Francis Patrick Murphy represent the toddler's family.

On January 14, 2009, Ben, 16 months old, was attending the Minee-Subee day care center in Lincolnshire, Illinois, along with his twin sister, Emily. Illinois law requires that two day care workers be in the toddler room at all times, if there are more than 5 toddlers in a class, as there was on January 14. During the Illinois Department of Children and Family Service's scheduled inspections, this law was followed. "During the day-to-day operation of the center, however, it was not," said Murphy.

On January 14, one of the teachers in the toddler room left the room to wash lunch dishes and then visit her own daughter in another area of the day care center. While Melissa Calusinski, a 22 year-old teacher's assistant, was alone in the room, several toddlers began fussing. Calusinski grabbed Ben, who was seated next to Emily, picked him up out of the high chair, lifted him up, and violently threw him down to the floor. Ben landed on his head causing a skull fracture. He then crawled over to his bouncy chair and cuddled up with his blanket. Calusinski did not seek care for Ben for about 20 minutes during which time he lapsed into unconsciousness. He died shortly thereafter at Advocate Condell Medical Center in Libertyville, Lake County, Illinois.

Calusinski has been charged with Ben's murder. The owner of the center, Judy Katz, has been charged with obstruction of justice stemming from her attempt to have the missing worker lie to the police and claim she was in the room at all times. This worker ripped

Attorneys

- Thomas A. Demetrio
- Francis Patrick Murphy

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up a statement she was to copy and give to the police, and threw it into a garbage basket. However, the police found it. The worker then confessed how she was suppose to lie. The day care center has been closed by state authorities.

"This heinous act against Ben would have been prevented if the day care center had obeyed the law," said Thomas Demetrio. "It is our hope, and the hope of the Kingan family, that Ben becomes the poster child for vigilant and strict adherence to safety rules and procedures by day care centers across the nation."

"An Irish proverb suggests that a person dies a second time if he is forgotten. Benjamin Kingan will never be forgotten by his parents, brother or sisters. In fact, his twin sister Emily, who is just beginning to talk, will point to Ben's photo and say, 'Ben,'" said Murphy. "This settlement is an acknowledgment by the day care center of its negligence in caring for Ben."