ORAL ARGUMENT TO BE SCHEDULED
BETWEEN JANUARY AND MARCH, 2015

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

Wendy Paola Destefano, *et. al*.	)	Docket Nos. 13-CV 679
Appellant,	)	13-CV-693
v.	)	13-CV-694
Children's National Medical Center	)	
and	)	DCSC No. 2010 CA 001935 B
Colonial Parking, Inc.	)	
Defendants.	)	
	)	

MINOR APPELLANT G.I.'S RENEWED MOTION TO LIFT STAY OF COLLECTION OF JUDGMENT AGAINST CHILDREN'S NATIONAL MEDICAL CENTER (CNMC) IN LIGHT OF CNMC'S RECENT ADMISSIONS THAT ITS CROSS APPEAL DOES *NOT* SEEK REVERSAL OF G.I,'S $1,560,000 JUDGMENT AGAINST IT

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Minor Plaintiff G.I., through his parents, Wendy Paola Destefano and Enrique Ibanez, respectfully renews his September 5, 2013 request that this Court lift the July 31, 2013 stay that the trial court has imposed upon collection of his judgment of $1,560,000, plus costs and interest, against Children's National Medical Center (CNMC).

I. **Overview**

On July 31, 2013, the trial court, via Judge Josey-Herring, granted the Defendants' a stay on the execution of the judgment. (**Ex. A**, July 31, 2013 Order)[1] Judge Josey-Herring based her decision to grant Defendants a stay on the judgment *solely* on the bases of Defendants' own respective, indendant cross-appeals. The full judgment in this case was issued against CNMC and its Co-Defendant, Colonial Parking, Inc. (Colonial), jointly and severally. The verdict and judgment (**Ex. B**) actually represent *four* separate judgments:

1) $1,560, 000 G.I.'s judgment against CNMC
2) $1,560, 000 G.I.'s judgment against Colonial
3) $26,000 V.I.'s judgment against CNMC; and
4) $26,000 V.I.'s judgment against Colonial.

Pursuant to the principals of joint and several liability, Plaintiffs G.I. and V.I. are entitled to collect the entire amount of the judgment from *either* Defendant, or to collect part of the judgment from each Defendant, as long as they do not "double collect," or

[1] In fact, in an earlier Order, dated June 25, 2013, on essentially the same *Joint Motion for a Stay*, prior to the Defendant's cross-appeals, Judge Josey-Herring held that the motion was moot, but *suggested* that the Defendants re-file their motion relying on their own appeals, rather than the argument that the children could not collect on the judgment awarded for past pain and suffering while they appealed issues of punitive damages and compensation for future pain and suffering.

collect more than the amount of the judgment from them collectively. *See Remeikis v. Boss & Phelps, Inc.*, 419 A.2d 986 (D.C. 1980). This motion concerns *only* CNMC.[2]

CNMC has now made it absolutely clear that it does not contest its own liability for the compensatory damages awarded to G.I.;[3] accordingly, CNMC should pay the judgment awarded to G.I. immediately. CNMC admitted, in its Opening Brief and Reply Brief, that its cross-appeal *does not* seek to reverse or vacate G.I.'s award against it. (**Ex. C,** pages 40-46, 49; **Ex. D,** pages 5, 8 and 11) In its Opening Brief (**Ex. C**), page 1, CNMC states clearly that it is not challenging the jury's award to G.I..

> In its protective cross-appeal, CNMC seeks review of the evidentiary questions in Issues IX and X only in the event that this Court grants one or more of the Plaintiffs a new trial as to CNMC in Appeal No. 13-CV-679.1 CNMC also appeals the Trial Court's failure to grant judgment as a matter of law ("JAML") with regard to V.I.'s bystander claim.

In their Response to CNMC's Opening Brief, Appellants had pointed out that CNMC had made no allegation of reversible error with respect to G.I.'s judgment and

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[2] In its own, separate cross-appeal, Colonial has challenged its own liability and does seek reversal of the judgment against it; accordingly, CNMC and Colonial stand in different positions with respect to the stay on collection. Irrespective of Colonial's continuation of the stay, CNMC has no basis for continuing a stay of collection of the entire judgment against it.

[3] G.I. does not contest the sufficiency of his award for *past* pain and suffering. He appeals: 1) the trial court's instruction to the jury NOT to award him compensatory damages for future pain and suffering from post-concussive syndrome; 2) the dismissal of his claim for punitive damages; and 3) the trial court's disallowance of litigation costs, in excess of $200,000. These "add ons" would increase his total award, but would not place his current judgment at risk. His mother, Ms. Destefano, and sister, V.I., also have claims on appeal, but this does not affect G.I.'s judgment. Ms. Destefano is contesting the dismissal of her claim for negligent infliction of emotional distress and V.I. is contesting the sufficiency of her award. If Plaintiff/Appellants prevail on appeal, it would only increase the award to the Plaintiffs by permitting awards for: 1) G.I.'s future pain and suffering from post concussive syndrome; 2) Ms. Destefano's own claim of negligent infliction of emotional distress as a bystander to her son's accident, in the zone of danger; 3) an increase in the award for V.I., due to additional evidence of her emotional distress that was excluded; 4) punitive damages; and 5) increase the amount of the award for Plaintiffs' costs of litigation.

therefore should pay G.I.'s judgment immediately. (**Ex. E,** pages 1-5) In its Reply Brief (**Ex. D**), CNMC never disputed Appellants' assertion that it should pay the judgment immediately; yet CNMC still refuses to pay it -- cloaked under the trial court's July 31, 2013 Order staying collection. Any further stay on collection would be a unconscionable abuse of the judicial process, of the Destefano-Ibanez family, their counsel and all persons owed money for services provided to the family and their counsel to litigate this case.

II. **Facts Forming the Basis of G.I.'s Jury Award**[4]

On March 11, 2009, Wendy Paola Destefano took her 6 year old son, "G.I.," to CNMC for his neurologist appointment, accompanied by her 4 year old daughter, "V.I.," and a toddler, E.R., in her care. Ms. Destefano entered the parking garage, which was operated and managed by Colonial. After G.I.'s doctor visit, the family returned to their car. The car was parked in the last space in a row. G.I. was standing in the parking space, next to the car, between his mother and his sister, V.I. Ms. Destefano asked G.I. and V.I. to back up in the narrow space between the car and the wall so that she would have room to open the car door. When they backed up, there was no wall behind G.I.'s back or head; instead, there was a three foot wide by two foot tall hole in the wall that opened into an air shaft with a 24 foot drop behind it. G.I. fell backwards through the open air shaft and dropped two stories to the concrete bottom of the air shaft. V.I. screamed, “My brother’s gone!!”

Ms. Destefano instinctively bent down and reached into it, trying to grab G.I., but she could not see or reach or see him in the dark hole. She screamed for help and a Colonial

[4] The facts are set forth in detail, with citations to the record and Joint Appendix, in their February 18, 2014 Opening Brief, but are briefly summarized herein.

Parking contractor used the emergency phone to call hospital security. G.I. was trapped in the air shaft for 15 minutes, severely injured, bleeding and crying. G.I. suffered serious, long term injuries as a result of this 24 foot fall onto concrete -- including injuries to his head, including worsened increased epileptic episodes, having his scalp slip open in several places and suffering "ongoing" post concussive syndrome. He also fractured both of his wrists and suffered soft muscle tissue damage and cuts and bruises throughout his body. Both G.I. and V.I. were diagnosed by CNMC's own doctors and other medical experts, as suffering from post traumatic stress disorder (PTSD) as a result of the accident.

The air shaft *should* have been covered with a metal grille; however, the cover was leaning against the wall, several feet away, toward the front of Ms. Destefano's car. This left a gaping hole in the wall, at least 3 feet wide by 2 feet high, beginning 1 foot up from the ground. The vent cover was missing all of its screws and was rusted. Trash, food, a decomposing dead rat and other debris at the concrete bottom of the air shaft indicate that the air shaft was open for a significant amount of time.

Within hours of the accident, the D.C. Department of Consumer and Regulatory Affairs (DCRA) Code Compliance and Inspection Division issued a *Notice of Violation* and *Notice to Abate* to Children's National Medical Center ("the hospital") for violating 12A D.C. Municipal Regulation 115.1, *failure to remedy dangerous conditions or remove hazardous materials*. Additional vent covers throughout the garage were loose, missing screws and rusted. During the DCRA Inspection, at least one vent cover was so loose that it became dislodged in Inspector Woods' hands. DCRA required repairs within 24 hours to alleviate the immediate danger that another vent might fall off and another person fall into an air shaft.

Pursuant to Colonial's contract with CNMC and Colonial's own internal written policies for all of the garages that it manages, Colonial Shift Managers were charged with the task of

inspecting the garage *three times per day*, using a *Manager's Daily Facility Check Sheet*, to detect, report and contain dangerous conditions to avoid injuries to persons and property. The undisputed evidence at trial proved that, within hours of the accident, Colonial managers falsified at least the previous two months of Check Sheets, to indicate that its employee, Belete Belete, conducted inspections of the garage, which he had not conducted. Mr. Belete testified, unchallenged, that his managers tried to coerce into signing the falsified reports, but that he would not do so, and instead, found another job. Colonial managers then *forged* Mr. Belete's name to the Check Sheets to cover up the fact that Colonial had not conducted the required inspections to detect dangerous conditions in the garage.

III. **A Stay of Judgment is not a Matter of Right, but Must Only be Issued to Protect a Party that is Likely to Succeed on Appeal on the Merits**

Pursuant to D.C. Super. Ct. R. 62(k) and 62-I (a), to prevail on a motion for stay pending appeal, a movant must show that he or she is likely to succeed on the merits, that irreparable injury will result if the stay is denied, that opposing parties will not be harmed by a stay, and that the public interest favors the granting of a stay. *Akassy v. William Penn Apartments*, 891 A.2d 291 (D.C. App. 2006), *citing Barry v. Washington Post Co.*, 529 A.2d 319, 320-21 (D.C. App. 1987), *citing In re Antioch Univ.*, 418 A.2d 105, 109 (D.C. App. 1980)).

In this case, success on the merits would mean that CNMC's appeal would be likely to result in the judgment being overturned. Judge Josey-Herring issued the July 31, 2013 decision staying collection on the judgment *solely* based on the fact that each of the Defendants filed a Notice of Appeal and that each appeal placed the judgment at risk of being overturned. (July 31, 2013 Memorandum Opinion at 3.)

Particularly in light of its recent admission that its cross-appeal *does not* challenge the judgment for G.I. for his past pain and suffering, but only asks this Court to preclude certain evidence on remand in a trial on the issue of punitive damages, CNMC has utterly failed to meet the burden of establishing that G.I.'s judgment against it is likely to be overturned on appeal. In fact, CNMC has now admitted that there is no danger of G.I.'s judgment against it being overturned on appeal because CNMC has not challenged it or claimed that any evidentiary matter constituted reversible error with respect to *G.I.'s award.* In fact, CNMC indicated that it was *satisfied* with the award and sought only to keep it as the jury awarded it. (**Ex. D** at 3).

CNMC could not possibly be harmed by paying a judgment that it is legally obligated to pay and is not at risk of being overturned on appeal. Similarly, the public interest certainly does not favor continuing a stay based on a frivolous appeal that does not even challenge the judgment, but rather, is used to harass, abusive and cause hardship for the prevailing plaintiffs, their counsel, and persons owed money for their services, provided to the plaintiffs and their counsel to litigate the case and obtain the judgment. Clearly, the public interest is in paying the duly owed judgment -- immediately -- and sanctioning CNMC for its abusive tactics to deter such conduct in the future, by CNMC and any other abusive defendant required to pay a judgment for its wrongful conduct and injuries caused to others by it.

IV. **CNMC Now Admits that its Cross-Appeal does not Seek to Reverse or Vacate G.I.'s Judgment against it**

In his September 5, 2013 *Motion to Lift the Stay on Collection of Judgment against CNMC* and *Motion to Dismiss CNMC's Cross Appeal, as Friviolous*,[5] G.I. argued that the stay on collection of his judgment against CNMC should be lifted because CNMC had not demonstrated that this judgment was at risk on appeal. CNMC refused to even state the basis of its appeal.[6] G.I. argued that no appeal could be more frivolous than one that the cross-appellant could not even articulate the basis of its appeal -- even

[5] Pursuant to D.C. App. Rule 42(c), where an appeal has no merit, it should be dismissed in order to save the Court and the parties time and resources, as well as to provide the injured party with relief expeditiously. *In Re Harry Spikes*, 881 A.2d 1118, 1125 (D.C. App. 2005); *Whitley v. National Railroad Passenger Corporation*, 2004 U.S. App. LEXIS 24262 (D.C. App. 2004); *Slater v. Biehl*, 793 A.2d 1268 (D.C. App. 2002); *Pine View Gardens, Inc. v. Jay's Frosted Foods, Inc*., 299 A.2d 536 (D.C. App. 1973); *Montgomery Ward and Co., Inc. v. Smith*, 412 A.2d 728 (D.C. App. 1980); *Tolson v. Handley Ford, Inc*., 304 A.2d 634 (D.C. App. 1973); *Walker v. U.S*., 304 A.2d 290 (D.C. App. 1973); *Parker v. Hot Shoppes, Inc*., 49 A.2d 657 (D.C. App. 1946).

[6] The family also pointed out that CNMC admitted that it had waived any right to appeal the jury award based on the sufficiency of the evidence because it did not file a Rule 50 motion for judgment, at the trial court level. (**Ex. F,** Appellants' September 9, 2013 *Reply to CNMC's Motion to Dismiss CNCM's Appeal*, at 2-3, referencing **Ex. G,** *CNMC's Opposition to Appellants' Motion to Dismiss CNMC's Cross-Appeal*, at 7, ¶9) In order to gain appellate review, the appealing party must have challenged the verdict in a *Rule 50 Motion for Judgment, Notwithstanding the Verdict* specifically stating the error of law that purportedly requires that the verdict be vacated. *University of the District of Columbia v. Vossoughi*, 963 A.2d 1162, 1180, particularly fn. 42 (D.C. 2009), *NCRIC v. Columbia Hosp. for Women Med. Ctr., Inc*., 957 A.2d 890, 902 (D.C. 2008); *Howard University v. Best*, 547 A.2d 144, 147-148 (D.C. 1988). CNMC's only motion challenging the verdict was its *Motion for Judgment, Notwithstanding the Verdict, on V.I.'s Claim of Negligent Infliction of Emotional Distress.* On June 24, 2013 the trial court denied *CNMC's Motion for Judgment*; accordingly, the only issue that CNMC could properly raise on appeal is whether the evidence was sufficient to grant an award against it *to V.I.* for negligent infliction of emotional distress.

Similarly, on pages 8-10 and 13 of its July 17, 2013 *Opposition* to the family's *Motion for Summary Affirmance* (**Ex. H),** *CNMC* conceded that it *could not* argue, on appeal, that the jury did not have sufficient evidence to award G.I. $1,560,000 for his past physical and emotional pain and suffering for the injuries resulting from his 2 story fall down the open air shaft in the hospital's garage.

under the threat of dismissal. CNMC argued that it did not have to reveal the basis of its appeal until filing its Opening Brief and that it should be permitted an opportunity to fully Brief its cross-appeal before having to pay the judgment.

This Court did allow CNMC to fully Brief its Cross-Appeal; however, in the mere five pages that it devoted to its own cross-appeal of the $1,560,00 judgement in favor of G.I., in its 50 page Brief, pages 40-46 (**Ex. C**), **CNMC never claimed that the purported evidentiary "errors" it raised constituted reversible error. CNMC did not ask this Court to reverse or vacate the judgment.** CNMC only asks this Court to prohibit the evidence it objected to from being admitted if the case is remanded and tried on the issue of punitive damages against CNMC.

In their Response Brief, the Destefano-Ibanez family pointed out that CNMC was not claiming reversible error and that there is no basis for CNMC continuing to withhold payment of G.I.'s judgment. (**Ex. E,** pages 1-5) CNMC did not even *attempt* to dispute this statement. Instead, in its Reply Brief (**Ex. D),** page 3, CNMC stated as follows.

> .... Plaintiffs ask the Court to overlook these serious flaws in the admission of Woods' testimony and affirm the judgment on essentially one argument: that the error in admitting the new and speculative testimony was harmless because the verdict form did not ask the jury to decide "why or how the vent cover became dislodged." (Response/Reply Brf., at 2) This argument overlooks the fact that **this assignment of error in CNMC's cross-appeal is a "protective," in that CNMC seeks review of the Trial Court's ruling only in the event that this Court determines to grant one or more of the Plaintiffs a new trial as to CNMC**. (CNMC Opening Brf. at 1 & n.1) (*Emphasis added*)
>
> It is well-settled that although a party generally need not cross-appeal if he **seeks only to sustain the lower court's decision**, it will not be permitted to enlarge its rights on appeal absent a cross-appeal. *Hartman v. Duffey*, 305 U.S. App. D.C. 256, 19 F.3d 1459, 1465 (D.C. Cir. 1994) *aff'd* 88 F. 3d 1232 (D.C. Cir. 1996); *Stutsman v. Kaiser Found. Health Plan of Mid-Atlantic States, Inc*., 546 A.2d 367, 370-71 (D.C. 1988). (*Emphasis added*)

Absolutely nothing in CNMC's appeal relates to the compensatory damages awarded to G.I. As CNMC stated above, it sought to "sustain" the trial court's award to G.I. -- not to reverse it. CNMC's goal is to keep the award to G.I. at its current level and not to increase it with an award of punitive or damages for future pain and suffering. Since CNMC has made no argument that the award should be lowered, or vacated, CNMC has no basis at all for refusing to pay it immediately.

In its Reply Brief (**Ex. D**), page 5, CNMC expressly acknowledged that its claim that Plaintiffs' expert's testimony regarding possible "overtorquing" of scews on the grill was unrelated to the jury's award of compensatory damages and only relevant to a potential remand on punitive damages.

> Thus, although the jury was not asked to determine "why the grille came off" for purposes of determining the minor plaintiffs' right to compensatory damages, that does not mean that CNMC would not be prejudiced by Woods' novel "overtorquing" **theory in the event the question of punitive damages is returned to the Trial Court for jury consideration.** Under such circumstances, CNMC is not barred from raising the question in its protective cross-appeal. *C.f. Nimetz v. Cappadona*, 596 A.2d 603, 606-608 (D.C. 1991). (*Emphasis added*)

With respect to its claim that the trial court should not have admitted portions of the D.C. Regulatory Agency's *Notice of Violation and Notice to Abate* that referred to missing screws and other safety violations pertaining to vent covers throughout the CNMC garage, other than the one that G.I. fell through, in its Reply Brief (**Ex. D),** page 8, CNMC again, did *not* ask claim that this admission constituted reversible error. CNMC *only* asked the Court to hold that this evidence be excluded in a remand on the issue of punitive damages.

In the event that the Court determines to reverse the judgment of the Trial

> Court with respect to punitive damages and orders a new trial, testimony and evidence of the condition of other grilles from Woods' "Notice of Violation and Notice to Abate" should be excluded. (*Emphasis added*)

In its conclusion, on page 49 of its Opening Brief (**Ex. C**), CNMC does not seek reversal of the G.I.'s award; instead, it asks the Court for the following relief.

> ..... With regard to CNMC's crossappeal, CNMC requests that:
> (1) the judgment in favor of V.I. be reversed, and that final judgment be entered against V.I. and in favor of CNMC with costs; [7] and
> (2) in the event this Court reverses or modifies the judgment in 13-CV-679 as to CNMC on any issue and awards Plaintiffs a new trial, that the judgment of the trial court be reversed or modified in accordance with CNMC's protective cross-appeal issues.

Similarly, CNMC concludes its Reply Brief (**Ex. D),** at 11, by clearly articulating that it is *not* seeking reversal of *G.I.'s judgment* against it, but only asks the Court to make evidentiary rulings if the Court remands the case for a trial on punitive damages.

> For the foregoing reasons, CNMC prays that the judgment in favor of V.I. be reversed, and that final judgment be entered against V.I. and in favor of CNMC with costs; and in the event this Court reverses or modifies the judgment in 13-CV-679 as to CNMC and awards Plaintiffs a new trial, that the judgment of the Trial Court be reversed or modified in accordance with CNMC's protective cross-appeal issues.

CNMC has withheld payment of the judgment to G.I. solely to cause hardship to the Destefano-Ibanez family and their counsel by delaying compensation and reimbursement of costs to them for as long as possible and in order to thwart their ability pursue their own issues on appeal. This is precisely the type of harassing, meritless appeals that *do not* constitute a basis for staying judgment on appeal.

[7] CNMC is seeking reversal of the $26,000 award to V.I., begrudging this little girl any compensation at all for the post-traumatic stress disorder that CNMC's own doctors diagnosed as resulting from her witnessing her brother fall down the open air shaft as she stood next to him, holding his hand. (**Ex. C**, pages 46-48; **Ex. D,** pages 8-10)

CNMC has succeeded in causing financial, emotional and even resulting physical hardship for the family and/or their counsel over the past year and a half, and required the undersigned and other persons working with her to work hundreds of hours on an appeal that has no merit and to try to obtain payment on a judment that should have been paid a year and a half ago. CNMC should not be permitted to cause additional harm for the duration of this appeal.

IV. **Defendants will *Not* be Irreparably Harmed if G.I. Collects his Judgment Now**

CNMC boasts, in its own *Motion for a Stay* of (**Ex. I**), page 6, ¶14, that CNMC has a net worth of **$378.5 million.**

> [T]he total judgment is S 1,586.000.00, and the net worth of either Defendant, alone, is more than ten times the judgment. Dividing the judgment equally between the Defendants, the net worth of Colonial exceeds its portion of the judgment more than 10 times (i.e.,$ 793,000.00 x 10 is $7,930,000.00). Similarly, the unrestricted net assets of Children's ($378.5 million) exceeds more than 1,000 times its share of the judgment. Ultimately, there is no risk that either Defendant would not be able to satisfy the judgment following disposition of the appeal and/or on remand to the trial court.

Clearly, then, CNMC *could pay this judgment and be completely unaffected by it -- with or without a contribution from Colonial.* There is *no chance of "irreparable" harm* to CNMC by ordering it to pay G.I.'s judgment of $1,560,000, plus costs and interest, against it immediately. In fact, the award is an amount that is *negligible* to this multi-million dollar mega-conglomerate corporation.

VII. **The Public Interest Compels Payment of G.I,'s Judgment Immediately**

As was the case in *Tupling v. Britton*, 411 A.2d 349 (D.C. 1980), CNMC has filed this appeal to delay a remedy for the injured plaintiff children and for their counsel and jeopardize the family's appeal. The children are now five years older than they were at

the time of the accident and that delayed compensation deprives them of compensation while they are still children, as well as of the time of their parents, who are both working substantial hours to provide for them.

The family's counsel has had to fund this litigation for more than five years, working without any compensation. Defendants' counsel are paid based on billable hours -- which are likely millions of dollars, collectively; however, the undersigned has had to find loans and funding resources, at substantial cost, to finance this litigation. Most law firms face these circumstances with prolonged litigation. Defendants should not be able to deprive Plaintiffs and their counsel of appellate review of this case by withholding payment of a judgment that is not at risk on appeal and should be paid now.

CNMC is attempting to coerce Plaintiffs into forfeiting their right to appeal and pursue their valid claims before the D.C. Court of Appeals. This type of abuse and drain on the resources for plaintiffs' attorneys creates a situation where attorneys will no longer take contingency fee cases, or will settle them for much less than they are worth -- to the detriment of the client, because they cannot afford to litigate them.

G.I. has waited more than five years from the date of the accident for some compensation for his severe injuries, from an accident which the Defendant hospital's expert, Dr. Watkin, testified, was a "horrific" accident, and it is "absolutely miraculous" that G.I. survived. 4-4-13 Trial Trans. at 186:23-187:2. The jury heard Ms. Destefano testify, under cross examination, that she did not focus on getting therapy for V.I. because she was overwhelmed by addressing G.I.'s needs, with respect to his medical conditions and his violent behavior at school -- as she cried. Payment on the judgment awarded would allow these parents to work less hours and to devote more time and attention to

helping their children heal and to providing them with things that would ease tensions and provide them some joy to counterbalance the fear, nightmares and terror that they experienced as a result of this accident. There is no reason to further delay compensation for the undisputed injuries.

CNMC argued that the "status quo" should be preserved; however, the "status quo," or current state of affairs, is that minor Plaintiff G.I. has been awarded a judgment of $1,560,000. Their attorney is entitled to her attorneys fees -- after more than five years of being drained of the firm's resources, working without any payment and financing the costs of the case through loans. Now, there is a judgment out of which she, her law firm, and others who have invested time and money over the past four years, into pursuing a remedy for these children and their mother, can finally be compensated for their work and/or reimbursed.

Contrary to preserving the *status quo*, the current stay on collection of the judgment sets G.I. and his counsel *back* to the period prior to the jury's April 22, 2013 jury award, to leave themwith *absolutely nothing* for two additional years or so, or whatever time it takes to resolve the appeal. This is not maintaining the "status quo." It would be additional years of trying to "starve" out the Destefano-Ibanez family and/or their counsel so that they will abandon their appeal in order to accept award that expressly excluded compensatory damages for G.I.'s most severe and life-changing injury -- post concussive syndrome that causes him to erupt in unpredictable violent outbursts and which has caused him to be transferred to a school for children who present a danger to themselves and others. This family and their counsel they have survived much longer in this litigation than CNMC ever imagined. They made it to trial. They put on their

case. They prevailed. They obtained a verdict, compensating the children, in part, and ordering a judgment that would reimburse their counsel for some of the expenses paid, out of pocket, and provide some compensation to her law firm, which has been consumed by this case for the last four years.

It is absolutely against the public interest to permit wealthy corporate defendants -- or their insurance companies -- to continue to wield their wealth against injured plaintiffs and their attorneys. At least payment on the judgment now would help to equal the playing field -- just a bit -- so that the children, now aged 12 and 10, can benefit from the money while they are still children, and the attorney who worked for them without payment for over five years can maintain her law firm and survive for the duration of appellate process. To rule otherwise would be to punish both the family and their counsel for pursuing an appeal to obtain compensation for G.I. for his most serious and life-changing injuries, as well as his mother's injury of emotional distress and punitive damages to deter the type of reckless disregard for the safety of others that both Defendants engaged in, resulting in this "horrific" accident -- to use the word of the Defendant hospital's own expert, Dr . Watkin.

CONCLUSION

Plaintiffs respectfully asks this Court to lift the trial court's stay on collection on Minor Plaintiff G.I.'s judgment and *immediately* pay him **$1,560,000**, plus the costs of litigation and post-judgment interest, from April 22, 2013.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that on this 27th day of November, 2014, a true copy of the foregoing *Minor Appellant G.I.'s Renewed Motion to Lift Stay of Collection on His Judgment against Children's National Medical Center*, was served, *via* e-mail, upon Defendants' counsel, named below, by agreement with counsel for Children's National Medical Center and Colonial Colonial Parking, Inc.

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