

# THE NATIONAL LAW JOURNAL

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## Doctor, Hospital Liable For Delay in Diagnosing Hip

CASE TYPE: *medical malpractice*

CASE: *Stephens v. Victory Memorial  
Hospital, 14528/87 (Sup. Ct., Kings  
Co., N.Y.)*

PLAINTIFF'S ATTORNEY: *Judith A.  
Livingston, of New York's Kramer,  
Dillof, Tessel, Duffy & Moore*

DEFENSE ATTORNEYS: *Thomas Vaughan,  
of New York's Jones, Hirsch, Connors  
& Bull*

JURY VERDICT: *\$7.3 million*

MARY STEPHENS was born at Victory Memorial Hospital in Brooklyn, N.Y., Oct. 4, 1969, with a dislocated hip, but the problem was not detected until 15 months later, when the child began to walk. Ms. Stephens went through nearly a dozen operations to correct the deformity, said her lawyer, Judith A. Livingston. She will face more operations in the future, Ms. Livingston said.

Had the hip dislocation been discovered at birth, Ms. Livingston said, "it would have been 100 percent correctable." Instead, Ms. Stephens "walks with a pronounced limp," and the condition cannot be corrected.

Ms. Stephens sued Victory Memorial and Dr. Robert Warren, a pediatric orthopedist, charging that negligence in failing to diagnose the hip dislocation early on led to the lifelong hip problems. The suit was not filed until 1987, Ms. Livingston said, "because her parents didn't know they had the right to sue." By the time the action was begun, Dr. Warren had been dead more than a decade.

During trial, the plaintiff settled with the doctor's insurance carrier, for the extent of his coverage, \$500,000. Then, on June 25, a Brooklyn jury awarded Ms. Stephens \$7.3 million, finding the hospital 80 percent and the doctor 20 percent liable. The present value of the award, Ms. Livingston said, is about \$5.5 million.