

CLIENT'S VIDEOTAPE PROVIDES PROOF

All parents dream of bringing home a healthy new baby from the hospital. Unfortunately, that dream did not come true for Jason and Fabiola Azuaje-Smith. In May 1994, the Smiths learned that they were about to become parents for the second time. Residing in Key West, Fla., the Smiths decided to seek prenatal care from a local physician, Dr. Frank Ferrin, and made arrangements to eventually have their baby at the Lower Florida Keys Health System Hospital.

On Feb. 18, 1995, Mrs. Smith went to the Lower Florida Keys Hospital, where she

was found to be in early labor. Mrs. Smith was considered an "at risk patient" due to complications she had with her first pregnancy. Although Mrs. Smith had informed her physician of her previous complications, Dr. Ferrin allowed her to progress through an arduous labor. Dr. Ferrin eventually performed a vacuum-assisted delivery of the child. In the medical community, this kind of delivery is known to be very dangerous and can result in serious complications.

The Smiths had a baby boy named Alejandro. Unfortunately, Alejandro began experiencing problems immediately after he was born. Dr. Ferrin and the hospital nurses failed to recognize that

Alejandro was completely unresponsive and that he was not breathing. Alejandro went for more than four minutes without breathing. The nurses finally called a code, but the damage to Alejandro was already done. The loss of oxygen to his brain caused severe damage.

The Smiths were told that Alejandro had suffered a stroke during labor and delivery. Dr. Ferrin and the nurses also told Mr. and Mrs. Smith that it was "God's will." One of the nurses wrote in Alejandro's medical chart that he was "born normal and spontaneously stopped breathing four minutes after birth."

In 1996, Mr. and Mrs. Smith took Alejandro to Children's Hospital in Miami for a routine check-up. While there, they learned that the denial of oxygen to Alejandro's brain was not caused by an intra-uterine stroke. They then retained the services of attorney David Kelley.

Mr. Kelley requested all the medical records from the hospital. For two years he litigated the case against the hospital, the doctors, and the nurses. The turning point of the entire case came when Mr. Kelley showed a videotape of Alejandro's birth. Mr. Smith, like many fathers, videotaped the birth of his son. On the video, viewers attending a courtroom proceeding could clearly see that Alejandro was lifeless and limp, exhibiting a dusky color and no signs of crying or squealing. Mr. Smith stopped the video recording when he heard the code called by the nurses. This videotape is shockingly different from what the nurses had written in the medical records and what had been told to the Smiths.

In March 2000, Mr. Kelley was able to effectuate a substantial recovery on behalf of Alejandro and his family. The settlement proceeds will aid the Smiths in giving Alejandro the best medical care, now and into the future. ■