

VERDICTS & SETTLEMENTS

\$2.5M settlement reached in birth trauma case

Plaintiff alleged earlier delivery would have prevented injuries

Plaintiff was pregnant with twins. She began prenatal care at the Defendant health clinic when she was 12 weeks pregnant. She was noted to be smoking half a pack of cigarettes a day. An ultrasound performed at 27+ weeks showed normal growth for both twins but that Twin B had duodenal atresia (a narrowing of the bowel) and polyhydramnios (too much amniotic fluid).

The ultrasound also showed the Plaintiff had a shortened cervix, which is a risk factor for preterm delivery. Plaintiff was sent home on strict bed rest.

Plaintiff went to Defendant Hospital a few weeks later, complaining of vaginal pressure with contractions. She was placed on a fetal monitor and given tocolytic medications to stop the contractions. She was also given betamethasone, a steroid, to mature the babies' lungs.

A note indicated that Plaintiff had been non-compliant at home with strict bed rest and smoking. Plaintiff was discharged home having no signs of contractions at the time.

Plaintiff was readmitted to Defendant Hospital a few weeks later for diarrhea and contractions. She was again placed on tocolytics to stop the contractions and received more betamethasone (steroids) for fetal lung maturity. Plaintiff was again placed on a fetal monitor. A number of bio-

physical profiles were performed; most were equivocal.

On the morning of the fourth day of Plaintiff's hospitalization, the monitor was non-reassuring. Also, the fetal monitor was not always monitoring both twins. At approximately 2:15 p.m. a biophysical profile was performed which showed 4/8 and 6/8 for the twins. The decision was made to perform a C-section due to non-reassuring fetal status and the patient was prepped for the procedure at 4:10 p.m. A nursing note states that the delivering obstetrician was present at 5:20 p.m. to perform the C-section.

The babies were delivered at 30 weeks gestation 1 hour and 40 minutes after the decision was made to do the C-section. Blood from the babies' umbilical cords was tested after birth, and the test showed decreased oxygenation. Apgars for Twin A were 2 and 7, and were 1 and 8 for Twin B. Both babies were hospitalized in the NICU.

Twin A developed meningitis (an infection of the lining of the brain) at about nine-days-old. A brain scan of Twin A taken on the same day showed "hypoxic ischemic encephalopathy." This finding is usually seen when there has been decreased oxygenation of the brain. Other brain scans confirmed this finding.

Twin A remained in the hospital for 66 days. Twin B remained in the hospital for 44 days. Twin A was diagnosed with spas-

tic quadriplegic cerebral palsy and mental retardation. Twin B was diagnosed with emotional problems and some developmental delays and learning problems.

Plaintiffs' position is the delivery should have occurred a few days earlier due to non-reassuring fetal status. The defense argued that the twins should not have been delivered sooner because of concerns about prematurity. Defendant neonatologists testified that the radiology report shows that Twin A's brain injury occurred 10-14 days before birth.

Defendants also asserted that Plaintiff-minor's problems were partly genetic and partly related to smoking and non-compliance. Defendants asserted that Twin B, had not suffered a brain injury. Her very mild problems were related completely to prematurity.

Type of action: Medical malpractice

Type of injuries: Twin A: Mental retardation and cerebral palsy; Twin B: emotional and learning problems

Name of case: Withheld

Court/case no./date: Withheld

Name of judge: Withheld

Settlement amount: \$2.25 million

Attorney for plaintiff: Jesse M. Reiter and James R. McCullen

Attorney for defendant: Withheld