

VERDICTS & SETTLEMENTS

Premature child diagnosed with cerebral palsy

Plaintiffs suggest
'overventilated'

\$1.55 million

Plaintiff-mother was a single 17-year-old when she began prenatal care in October 1995. Her estimated due date was May 10, 1996. On Jan. 10, 1996, at 21 weeks gestation, she complained of some vaginal spotting. She was hospitalized overnight and treated for a urinary tract infection.

On March 16, 1996, at 31 weeks gestation, Plaintiff-mother presented to the hospital with complaints of contractions. She delivered a baby boy vaginally within a few hours. Maternal lab tests revealed a positive marijuana screen. The baby tested positive for carbon monoxide, suggesting maternal cigarette smoking. Apgars were 8 and 9, and blood gasses were normal.

Within minutes of the delivery, Plaintiff-minor had difficulty breathing due to prematurity. He was diagnosed with respiratory distress syndrome (RDS, or immature lungs). He was intubated and was transferred to a nearby hospital with a neonatal intensive care unit.

Plaintiff-minor remained in the hospital for a month. He was ventilated for the first four days. Physical and neurological examinations during the hospital stay were normal.

During the first few days of life, his car-

bon dioxide levels became low, though his other blood gasses were normal. Around the fourth day of life, Plaintiff-minor had bilateral pneumothoraces (holes in lungs). These were successfully treated.

Four head ultrasounds performed during the hospitalization were all read as normal. Subsequent review of these films by a neuroradiologist expert showed an evolving periventricular leukomalacia (white matter brain damage) occurring in the hospital. Periventricular leukomalacia is commonly seen in premature babies.

At one year of age, Plaintiff-minor was diagnosed with cerebral palsy. Subsequently, he was found to have low-normal IQ.

The plaintiffs alleged that Plaintiff-minor was overventilated, which caused his carbon dioxide levels to become abnormally low during the first 24 to 36 hours of life. The plaintiffs also alleged that the ventilator should have been weaned much more quickly, which would have avoided this injury.

Defendants responded that three to four days of ventilation was not too long. If Plaintiff-minor was weaned too quickly, injury could result from lack of oxygen. Also, blood gasses were normal and Plaintiff-minor was quickly weaned off the ventilator. The carbon dioxide levels were never low enough to cause brain damage. Defendants further asserted that if brain damage occurred neonatally, there should have been abnormal physi-

Type of action: Medical malpractice

Type of injuries: Brain Damage

Name of Case: Confidential

Court/Case no./Date: Confidential; Confidential; Nov. 6, 2007

Tried before: Mediation

Name of Judge: Confidential

Mediation settlement: \$1.55 million

Special damages: Cerebral palsy; low-normal IQ

Most helpful experts: InFocus Research Group, Shelby Township

Attorney for plaintiff: Jesse M. Reiter and Juliana B. Sabatini

Attorney for defendant: Withheld

cal and neurological findings.

Rather, the brain damage occurred several days before the birth and the neonatal course was normal and caused the bilateral pneumothoraces. The brain damage also was the result of being born nine weeks early. Defendants also asserted that the pneumothoraces and the child's current condition were caused by prematurity. Additionally, Defendants asserted that part of Plaintiff-minor's condition was genetic, though genetic testing was normal.

The case settled four days before trial.