

[Verdicts & Settlements]

Premature child born with cerebral palsy, learning problems

Plaintiff should not have been discharged from hospital, given fetal status

\$1.9 million

On Oct. 2, 2004, the plaintiff, pregnant for the first time, presented to defendant hospital at approximately 29 weeks' gestation with a complaint of left upper quadrant abdominal pain. Her blood pressures were elevated. She was discharged the next day.

Two days later, plaintiff presented to her prenatal care office, and was noted to have positive protein in her urine. She was sent to the hospital for pregnancy-induced hypertension (PIH) labs and a 24-hour urine test.

At the defendant hospital, she had a potential diagnosis of PIH (a diagnosis requiring elevated blood pressures) versus mild preeclampsia (a diagnosis requiring high blood pressure and protein in the urine). She was discharged home with instructions for biweekly nonstress testing (NST) and a 24-hour urine test.

On Oct. 7, she presented to defendant hospital for a biophysical profile test (BPP) after

Type of action: Medical malpractice (birth trauma)

Type of injuries: Mild cerebral palsy, motor skill delays

Name of case: Confidential

Court/Case no./Date: Confidential; confidential; March 5, 2009



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Name of judge: Confidential

Settlement amount: \$1.9 million

Most helpful expert: InFocus Research Group, Shelby Township

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Attorney for defendant: Withheld

there was difficulty in obtaining an NST at her prenatal care office. Her blood pressure in triage was elevated. Physical exam revealed 2+ edema (swelling). She was admitted to the hospital for monitoring.

Two days later, the resident doctor documented a plan to repeat PIH lab work, and continue the current care plan. The attending physician had a different plan and discharged her with a diagnosis of preeclampsia. She was told to follow-up on an outpatient basis.

On Oct. 11, the plaintiff returned to defendant hospital with complaints of a headache and elevated blood pressure. Fetal monitoring was nonreassuring. A BPP was performed, and was reported as 2 out of 10 (nonreassur-

ing) with fetal heart rate decelerations.

A C-section was performed, with blood gases after birth showing metabolic acidosis. The baby was transferred and the records indicated neonatal depression. A CT scan of the head revealed intraventricular hemorrhage (IVH), not uncommonly seen in premature babies of this gestation, and possible periventricular leukomalacia (PVL), a preterm white-matter brain injury.

Plaintiff-minor, 5 years old, had a normal IQ, but showed early signs that he might have learning problems. He also had mild cerebral palsy, but was walking and functioning at near normal levels.

Plaintiff asserted she should not have

been discharged from the hospital Oct. 9, 2004. Rather, the resident's plan of continued monitoring should have been followed, as she was preeclamptic. Delivery should then have occurred prior to the presence of nonreassuring fetal status on Oct. 11 at 30 weeks and 5 days gestation.

Defendants' position was that the injury occurred as a result of the prematurity, as evidenced by the head imaging that showed IVH and possible PVL. Because there was no dispute that the baby needed to be delivered prematurely, the prematurity-related injuries to the brain could not have been prevented.

The case settled for \$1.9 million.