

Verdicts & Settlements

**Settlement: \$7,600,000 (CASH)**

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**CASE INFORMATION:**

**Case Name:** CONFIDENTIAL

**Case Number:** CONFIDENTIAL

**Case Type:** MEDICAL MALPRACTICE

**Topic:** Brain Damage to an Adult

**Court:** Los Angeles (Central)

**Department:** 25

**Filing Date:** September 19, 2006

**Result Date:** November 21, 2007

**PLAINTIFF ATTORNEYS:**

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**MEDIATOR:** Jay Horton, Esq., Judicate West (Los Angeles)

**EXPERTS:**

Case settled prior to the exchange of expert witnesses

**CASE FACTS:**

Plaintiff, a 30 year old woman, was admitted to deliver triplets at a large tertiary care hospital. Her obstetrician planned to attempt a vaginal delivery of the three babies, if possible. If not possible, one or more of the babies would be delivered by Cesarean section. Baby A and Baby B were born vaginally without difficulty. Baby C was high in the pelvis, malrotated and difficult to deliver. The obstetrician was concerned about fetal well being, but instead of moving to a prompt Cesarean section, he attempted a "high forceps" delivery of Baby C. When this was not successful, he attempted a vacuum delivery. With difficulty, Baby C was finally delivered vaginally. More bleeding than usual was noted by the obstetrician.

The mother was moved to a regular post-partum floor, despite the increased risk of post-partum hemorrhage with triplets; and despite the use of the high forceps during the attempts to extract Baby C. It was late in the evening, and the obstetrician went home. The senior obstetrical resident went off to see other patients. Several hours after delivery, the mother began to complain of severe pain in the recto/vaginal area. Her blood pressure fell to 70/53, and she was noted to have clammy skin. Two junior residents were called to the bedside. They gave the patient intravenous saline, which transiently increased her blood pressure. And, they ordered a complete blood count (CBC) on a "stat" basis. They did not perform a physical examination, nor did they call the senior resident or the attending physician. They left the bedside, assuming the blood work would be done; and that they would be called with the results.

The lab tech did not come to draw the blood on an expedited basis. When she did come by several hours later, plaintiff's husband asked if the blood test could wait until morning, since his wife was exhausted from delivering triplets. The nurse and the resident conferred by phone and agreed to wait until morning to draw the blood. Blood pressures were not taken on a frequent basis, nor did the residents come back to see the patient to re-assess her status.

At approximately 6 a.m., while on morning rounds, the senior resident entered the patient's room and found her in cardiopulmonary arrest. A Code Blue was called. Resuscitation attempts were initially unsuccessful, with difficulty getting the defibrillator to function. Eventually, plaintiff was resuscitated, and survived. However, she suffered severe and permanent brain damage as a result of oxygen deprivation during the code. She eventually stabilized in a "minimally conscious state." She now requires round the clock care.

The subsequent blood count from around the time of the code blue was consistent with severe blood loss, with a hemoglobin of 4 and a hematocrit of 12 (normal being 14 and 42, respectively). On the day following delivery, surgery was performed and a large amount of blood was found in the pelvic cavity. A small laceration was found in the lining of the uterus.

**Plaintiff Contentions:**

There should not have been an attempt to deliver triplets vaginally, given the increased risks of vaginal delivery in these cases. Once there was difficulty delivering Baby C, the obstetrician should have moved directly to Cesarean section, rather than continuing to attempt delivery from below. High forceps should not have been used at all, since it further increased the risk to mother and baby (and ultimately led to a uterine laceration). The mother should have been closely monitored after delivery in a step-down unit, if not the ICU, given the increased risk of post-partum hemorrhage with multiple gestation (especially given the greater than usual amount of bleeding that occurred during delivery).

Once on the regular floor, the vital signs should have been taken often; and she should have been observed for signs of hemorrhage. When she developed recto/vaginal pain (a potential sign of peri-rectal bleeding) and low blood pressure, there should have been a prompt and extensive evaluation for bleeding. Giving a small bolus of fluids and leaving the area was inadequate. Blood pressures should have been taken frequently. Senior physicians should have been called. Failing to obtain the blood test on a “stat” basis was also inappropriate. Waiting until morning to draw the blood allowed the patient to essentially “bleed out” while lying in her hospital bed.

**Defendant Contentions:**

Attempts at vaginal delivery with triplets are reasonable. The standard of care does not require C-section in all cases. Baby C was delivered expeditiously because of concern for fetal well-being. Prompt vaginal delivery with forceps and/or vacuum was faster than moving to a C-section. The small laceration found in the uterine wall was minimal and not responsible for significant hemorrhage. Indeed, there was insufficient blood loss to explain her cardiopulmonary arrest. Instead, she had an unpredictable, unforeseeable and untreatable amniotic fluid embolism complicated by a bleeding disorder (“DIC”) that resulted in the cardiopulmonary arrest. The CBC results were a laboratory error, since the blood was diluted, having been drawn through an IV line during the code blue.

**FINANCIAL INFORMATION:**

Economic: Plaintiff’s annual care costs were estimated at \$360,000 per year. Given her shortened life expectancy, an annuity was purchased to provide that stream of payments for approximately \$4.3 million. Her lost earning capacity was estimated at \$1,200,000 (present cash value).

Non-Economic: Limited by MICRA to \$250,000. Husband also had a claim for Loss of Consortium and Negligent Infliction of Emotional Distress.

**Total Award: \$7,600,000 (cash)**

**Settlement Discussions:** Four mediations took place at Judicate West, and the case finally settled with all defendants, shortly before the first trial date.

**Injuries:** Severe and permanent brain damage in a mother, following birth of triplets. Plaintiff is left in a minimally conscious state, requiring 24 hour per day care.

**Other Information:** The nurse responsible for taking care of the plaintiff in the post-partum period was obtained by the defendant hospital through its contract with a nursing registry. This registry, in turn, obtained the nurse via a second agency. This brought three additional defendants and two additional insurance policies to the case, facilitating settlement.