

VERDICT & SETTLEMENT REPORT FORM

SETTLEMENT - BIRTH INJURY/CEREBRAL PALSY

Case Name: CONFIDENTIAL Docket #: \_\_\_\_\_  
Type Of Case: Medical Malpractice  
/ /Verdict /X/Settlement  
Filing Date 12/31/02 Court: Riverside Superior Branch: Indio  
Result Date: 05/01/08 Judge: \_\_\_\_\_ Dept: \_\_\_\_\_  
Trial Length: \_\_\_\_\_ days Poll: \_\_\_\_\_ Deliberation: \_\_\_\_\_ days  
SETTLEMENT: \$2,000,000 (cash)

**Attorneys and Experts**

Ptf: Russell S. Kussman, Esq. Tel: (310) 474-4411  
Firm: KUSSMAN & WHITEHILL Fax: (310) 474-6530  
Address: 10866 Wilshire Blvd., Suite 1470, Los Angeles, CA 90024

| Experts                | Expertise                | City            |
|------------------------|--------------------------|-----------------|
| Ptf:                   |                          |                 |
| Barry Schifrin, M.D.   | Perinatology             | Encino          |
| Ronald Gabriel, M.D.   | Pediatric Neurology      | Century City    |
| Michael Sherman, M.D.  | Neonatology              | Springfield, IL |
| Arturo Mendoza, M.D.   | Placental Pathology      | Del Mar         |
| P. Ellen Grant, M.D.   | Pediatric Neuroradiology | Boston, MA      |
| Donna Barras, M.D.     | Rehabilitation           | Buena Park      |
| Joyce Pickersgill, PhD | Economics                | Santa Ana       |
| Maureen Sims, M.D.     | Neonatology              | Los Angeles     |

**INCIDENT**

Date of incident: October 24, 2001

Victim age at time of incident: Birth Occupation(s) N/A

Injuries-residuals (treatments/surgeries-current and future):  
Severe cerebral palsy, spastic quadriparesis and developmental delay due to brain damage from lack of oxygen at birth.

**Facts leading to lawsuit:** Mother of plaintiff was 8 months pregnant when she was in a major motor vehicle accident (her truck was T-boned by a fast moving vehicle). She was thrown from the truck, and had injuries to her hip (dislocation). She was taken by helicopter to a local hospital, where she was evaluated orthopedically and obstetrically. Her hip was repaired surgically, and then she was turned over to the obstetricians. Although the fetal heart tracing showed some signs of possible non-reassurance, by the following morning her obstetricians felt the tracing looked stable and the fetus was doing well. By that afternoon, however, the strip began to deteriorate. The nurses called the obstetrician, who said she would be in later. The strip continued to deteriorate, and that evening the obstetrician came to see the patient. Still, a cesarean section was not done immediately. Rather, the obstetrician called her partner. He came to the hospital and finally a cesarean section was done for fetal distress. The baby was born severely depressed with signs of asphyxia, which ultimately led to cerebral palsy, spastic quadriplegia and developmental delay.

**Ptf contentions:** The obstetricians initially misinterpreted the fetal heart tracing, wrongly concluding the baby was doing well. Then, the hospital nurses should have been more prompt and informative in their conversations with the obstetrician when the fetal heart tracing began to deteriorate further, later in the day. When the obstetricians finally did return to the hospital, there was further undue delay in performing a Cesarean section. As a result, there was a delay in delivery, which led to irreversible brain damage.

**Def contentions:** The injury occurred at the time of the motor vehicle accident, and the brain damage was already present when the mother got to the hospital. The management thereafter was reasonable under the circumstances, and did not cause or contribute to any further injury.

#### FINANCIAL RESULTS

Total Verd/Set: \$2,000,000 (cash)  
\$ 1,250,000 (cash) from the hospital  
\$ 750,000 (cash) from the obstetricians

Submitted by: Russell Kussman Tel (310) 474-4411  
Fax (310) 474-6530