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From the January 13, 2003 North Carolina Lawyers Weekly.

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Verdicts & Settlements

Failure To Perform C-Section In Timely Fashion — Twin Delivery

Brief statement of claim: John Doe, the second born of twins, was delivered in 1993 by vacuum extraction at defendant hospital. Delivery was performed by defendant doctor. John Doe was born without a heart beat and required prolonged resuscitation. Following birth, he was transferred to another hospital, and during admission was noted to have multiple episodes of lip smacking and left arm jerking, felt to be seizure activity.

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John Doe's discharge diagnoses included perinatal asphyxia and seizure disorder. He suffers from cerebral palsy, causing motor and speech deficits and requiring assistance with transfers and feeding, and currently uses a walker to ambulate. He is in the fifth grade where he is in the gifted and talented program, a mainstream school. He has a full-time aide at school and receives occupational and speech therapy through the school system.

Other useful info: The statute of limitations for the mother of John Doe had already expired as of the time the case was received, according to plaintiff's counsel. John Doe, through his guardian ad litem, alleged that defendant doctor failed to properly manage the final stages of delivery, namely to recognize that John Doe (Twin B) began to show signs of fetal compromise just prior to the delivery of his brother (Twin A), failed to obtain adequate fetal heart tracings for John Doe after the birth of Twin A, and failed to timely perform a c-section.

Plaintiff also alleged that the nursing staff at defendant hospital failed to properly monitor John Doe and to intervene on his behalf. Plaintiff alleged that the failure to timely perform a c-section was a proximate cause of John Doe's cerebral palsy. Plaintiff also alleged that the Apgar scores for John Doe were improperly recorded as 0, 6 and 7 by defendant hospital instead of 0, 2, and 2 as reflected in the medical records of other health care providers treating John Doe.

Defendants denied that a c-section delivery was necessary, and alleged that defendant doctor and nursing staff at defendant hospital timely and appropriately effectuated delivery of both twins through the use of vacuum extraction. Defendants further denied that any action or inaction on their part was a proximate cause of John Doe's cerebral palsy.

Principal injuries (in order of severity): Cerebral palsy

Special damages: n/a

Tried or settled: Settled after two mediations with Robert Beason

County where tried or settled: Confidential

Case name and number: John Doe v. Doctor and Hospital

Date concluded: Settled in September 2002 during second mediation

Name of judge: n/a

Amount: Total settlement: \$2.75 million; annuity with cost of \$1.25 million, yielding a lifetime payout of \$11,592,452, providing for monthly payments and a college fund

Insurance carrier: Confidential

Expert witnesses and areas of expertise: n/a

Attorney for plaintiff: Karen Rabenau and Jeff Essen of Twiggs, Beskind, Strickland & Rabenau, P.A., Raleigh

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