

SETTLEMENT IN BRAIN DAMAGED INFANT/BRACHIAL PLEXUS  
CASE IS \$2,000,000.00

*2010 Medical Malpractice Trial Report*

**BIRTH INJURY Medical Malpractice Lawsuit: Failure to Appreciate Fetal Distress and Excessive Traction Results in Brain Damage, Cerebral Palsy and Permanent Brachial Plexus Injury**

On her first pre-natal visit Mom reported that one of her sister's was a gestational diabetic and her other sister was an insulin dependent diabetic.

At the next pre-natal appointment Mom weighed 143 pounds and was reported to be 5 feet tall. During the course of the pregnancy, Mom gained 50 pounds, had abnormal glucose tests and had fundal heights that were consistently higher than the weeks of gestation. The one-hour glucose screen was 216.

Just prior to delivery a fetal heart rate tracing was taken showed decreased variability. The report indicated that the strip was non-reactive with a question of late decelerations and minimal variability. It was decided that the earlier findings were the result of low blood sugar poor hydration. Mom was given as IV and the strip was repeated. Mom was instructed to return to the hospital in four days.

Mom did return to the hospital in four days and reported that she had been leaking fluid since the day before, but was unsure of when her water broke. The admit note states that there should be preparation for shoulder dystocia and notes macrosomia, the history of diabetes, a prior LGA (large for gestational age infant). The record states that they should anticipate a difficult delivery.

Labor progressed throughout the day and into the evening. The fetal heart monitor strips reveal neonatal depression. At 23:15 a male child was born. Shoulder dystocia was encountered. The baby weighed 3995 grams. The Apgars were 0/1 and the baby had extreme neonatal depression. The delivery note does suggest that the McRoberts position was employed as well as a Woods maneuver in order to deliver the baby.

The chart states that severe variables were encountered during labor and that the labor was dysfunctional. Also that there was a prolonged rupture of membranes.

When faced with a diagnosis of macrosomia, difficult delivery anticipated, and preparation for shoulder dystocia was an obligation to inform the patient and to present the risk and benefits of the proposed therapy (pitocin augmentation and vaginal deliver), and the risks and benefits of the alternative which would have been caesarian section.

With the presence of “severe variable decelerations”, wild fluctuations in the fetal rate, and the non-reassuring strips a caesarian should have been accomplished. Certainly a fetal scalp electrode was indicated to read BTB variability and the presence, absence of reassuring strips. Faced with the strips reviewed and the impending difficult delivery a caesarian should have been performed.

When the shoulder dystocia was encountered, excessive downward lateral traction was employed this stretching the brachial plexus resulting in the permanent brachial plexus injury. The application of excessive traction is a deviation from accepted standards of medical practice and hence constitutes negligence.

Presently, the child has a feeding tube, exhibits some neurologic delays and has a permanent brachial plexus injury.

Following mediation the case was settled for the amount of \$2,000,000.00.