

*\$950,000.00 VERDICT IN BRACHIAL PLEXUS CASE Medical Malpractice Trial Report\**

**BIRTH INJURY Medical Malpractice Lawsuit: Excessive Traction Results in Permanent Brachial Plexus Injury**

Due to an estimated fetal weight of 8-9 pounds an induction of labor was ordered and initiated. On the second day of induction, the mother progressed to complete dilation/complete effacement.

The fetal heart rate was normal and reassuring throughout labor. The patient pushed for 2 hours and brought the fetal head to plus 2/3 station. The caput was noted to be at plus 3 station and the first trial of vacuum assisted delivery was performed. No indication for vacuum assisted delivery was noted in the record by the obstetrician. Nursing records at the time of the first application of the vacuum noted that the mother was pushing well. The vacuum was placed for a length of 4 contractions with descent of 1 ½ cm. The use of the vacuum was then stopped and obstetrician allowed the patient to resume pushing. Allowing the patient to resume pushing after the instrument-assisted vaginal delivery was a breach of the standard of care. After failing to effectuate the delivery with the vacuum, the standard of care was to effectuate delivery via cesarean section. It was a violation of the standard of care to allow this patient to continue to push on her own after the failed operative delivery and then to apply the vacuum a second time. The vacuum was reapplied for an additional 4 contractions until the head delivered. A turtle sign was noted and a shoulder dystocia was diagnosed.

Prior to delivery, shoulder dystocia maneuvers were implemented. When this failed, there was an attempt to rotate the anterior shoulder, which was not successful. The obstetrician then attempted posterior arm delivery. The nurses' note indicates that suprapubic pressure was applied. An episiotomy was not performed. The posterior shoulder release effectuated the delivery. Medical records indicate that delivery of the body after delivery of the head took 2 minutes. The assigned apgar scores were 3 at 1 minute, and 8 at 5 minutes. The baby was macrosomic with a birth weight of 10 pounds 4 ounces. The newborn admission record reflects the baby had a right brachial plexus injury and suffered from neonatal hypoglycemia.

Subsequently, the baby began a course of physical and occupational therapy for the persistent Erb's palsy injury. Sural nerve grafting was performed in an effort to correct the abnormalities of his right upper extremity at the Children's Hospital in Boston, Massachusetts. Further operative intervention was also performed at the Children's Hospital in Boston.

The child remains with a permanent brachial plexus injury.