

# Delivery leaves child's left arm disabled

Defense: Birth trauma was 'surprise nightmare,' injuries unpreventable

## \$1 million

In a confidential lawsuit filed in Wayne County Circuit Court, plaintiff asserted defendant was negligent when plaintiff minor suffered birth trauma, leaving her left arm permanently disabled.

Plaintiff minor's prenatal course was uneventful up to the morning of her birth in 1999. The mother arrived at the hospital shortly after midnight. Around 4:45 a.m., the fetal heart monitor began to show decelerations, tachycardia and decreased variability. This pattern worsened significantly around 6:45 a.m., and continued for 40 minutes without intervention.

Plaintiff's experts opined that the standard of care required the baby be delivered at 7:15 a.m. Instead, the child was delivered at 8:01 a.m. with APGAR scores of 3, 4 and 6 at 1, 5 and 10 minutes, requiring neonatal resuscitation.

As a result of the mismanaged labor and delivery, the little girl suffered from Erb's Palsy, leaving her left arm permanently disabled.

Plaintiff asserted that the defendants failed to identify and respond to an arrest of descent; the presence of meconium; baseline tachycardia; fetal distress; shoulder dystocia; and amnionitis by maternal fever greater than 104 F.

Defendants claimed that the child's injuries were a "surprise nightmare" and unpredictable, causing injuries that were unpreventable.

The matter settled for \$1 million.

**Type of action:** Medical malpractice

**Type of injuries:** Birth trauma, causing brachial plexus injury, manifested as Erb's Palsy of the left arm

**Name of case:** Confidential

**Court/Case no./Date:** Wayne County Circuit Court; Confidential; July 2009

**Settlement amount:** \$1 million

**Attorneys for plaintiff:** Brian J. McKeen, Terry A. Dawes

**Attorney(s) for defendant:** Withheld

**Key to winning:** Focus on the defendants' failure to adequately identify and properly treat intrapartum problems