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BREECH BIRTH RESULTS IN \$9 MIL. MED MAL VERDICT

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Before 4-year-old Bianca Morales turns 21, the bills for her medical care will total \$4 million, plaintiffs' attorneys Alan Schwartz and Stephen Pokiniewski of Anapol Schwartz Weiss Cohan Feldman & Smalley told a Philadelphia Court of Common Pleas jury. The jury awarded Morales and her parents \$9.6 million in an action against the hospital and doctors who participated in her breech birth.

An undisclosed high-low agreement brokered before Judge Marlene Lachman charged the jury on Friday will limit the amount collected by the plaintiffs. According to the plaintiffs' attorneys, the defense offered \$400,000 prior to trial.

"We regret that we could not make jury understand nature of emergency that presented itself and the real hopelessness of delivering this baby without injury," defense attorney Richard Geschke of McCann & Geschke said. "But it was reassuring to the parties that there was some certainty of the money that would change hands. The baby's parents would receive enough money to care for the child, and the defendants were protected."

The jury returned the verdict in Morales v. Northeastern Hospital, Tirado, Shin, Mason and Zeimbia late Monday afternoon after a two-week trial.

Bianca Morales was born to Norlida Morales and Arnoldo Leiva on June 26, 1996, two days before her estimated due date.

An ultrasound had been scheduled by Dr. Doris Tirado for the June 27 to determine the position of the child and the progress of the pregnancy. Morales, a Guatemalan woman who immigrated to the United States in 1995, had been referred to Tirado for prenatal care a week previous. Prior to that she had been under the care of a city-supported clinic, but Tirado did not obtain records of that care.

According to plaintiffs' attorney Pokiniewski, Tirado was negligent in failing to seek out the records and in delaying the ultrasound for a week. The defense argued that the records were unavailable and Tirado reasonably believed the due date had been calculated incorrectly. The jury found Tirado 42 percent negligent.

Morales' water broke as she registered at Northeastern Hospital on the evening of June 26. The baby's foot was protruding; Morales was rushed to the emergency room, where she was evaluated by nurse Faith Mason. Mason also observed a prolapsed umbilical cord, which she unsuccessfully attempted to push back into the mother. She contacted Dr. Myung Hyo Shin, the obstetrician on call.

The plaintiffs argued that Mason further injured the baby in her treatment of the umbilical cord and was negligent in not keeping the child and cord warm to prevent possible spasms. The defendants argued that her care was proper. The jury found Mason 8 percent negligent.

A surgical resident attempted to deliver the breech baby, but one shoulder was lodged. Emergency room doctor Dr. Thomas Zeimbia freed the shoulder but broke the child's clavicle. The jury did not find Zeimbia negligent.

As the child's head remained lodged in the mother, her body and the umbilical cord delivered. When Shin arrived, he finished the delivery. Between 20 and 30 minutes had passed since Morales' water broke. The jury did not find Shin negligent for the delay.

Northeastern Hospital was found 50 percent negligent in the birth.

"The theory against hospital was that there was no one present at hospital to deal effectively with the delivery of this child. There was no policy or procedure in place for this," Pokiniewski said.

Defense counsel Geschke said, "We tried to provide the jury with an understanding of the emergency the doctors were presented with. In some cases as much as doctors and nurses try to prevent problems they can't, in spite of the best medicine and the best intentions."

Newborn Bianca Morales was transported to St. Christopher's Hospital, where she was diagnosed with brain damage, cerebral palsy and global developmental delay. She underwent a tracheostomy and the insertion of a feeding tube. Today, she remains dependent on constant care from her parents and nurses.