

\$15.97M deal in Will County birth injury

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Update: A correction was made to clarify that the lawsuit was settled for \$15.97 million.

The mother of a child who sustained a brain injury at birth has settled her lawsuit against the hospital and doctors who treated them for \$15.9 million.

A deal was reached Jan. 7, the same day trial was set to begin before Will County Associate Judge Matthew G. Bertani, according to court records.

The settlement is higher than any previously reported medical-malpractice verdict or settlement in Will County, according to John L. Kirkton, editor of the Jury Verdict Reporter, a Law Bulletin Media product.

On May 18, 2011, Amy Hurtuk, then 17, went to the hospital to deliver her baby. At 8:24 a.m., doctors gave Hurtuk Oxytocin, a drug used to induce labor, which required continuous electronic fetal monitoring per hospital protocol and the obstetrician's order, according to her attorneys.

Hurtuk was represented by Joseph J. Miroballi, Albert E. Durkin and Lauren A. Levin of Miroballi Durkin & Rudin LLC and sole practitioner Robert Allen Strelecky.

About 1:30 p.m. Hurtuk's fetal monitoring indicators showed signs of fetal hypoxia, which occurs when the fetus is deprived of adequate oxygen, according to a firm issued news release.

Thirty minutes later, hospital staff attempted intrauterine resuscitative measures but they were unsuccessful.

Hurtuk's attorneys contended when those measures failed the baby should have been delivered. The baby was born at 4:51 p.m., according to the release.

At 3:01 p.m., the internal electronic monitor was no longer working and an external monitor was used, but it also failed shortly thereafter, the release stated.

The external monitor was not replaced until 4:16 p.m., after defendant Dr. Kanchana Esaria-Umpai checked in with Hurtuk.

At 4:40 p.m., Esaria-Umpai returned to check on Hurtuk and when she reviewed the monitor a call was placed for the neonatal team to be present for the delivery.

The neonatologist reportedly did not arrive in the delivery room until two minutes after the baby was born, according to the release.

Records indicated the baby was deprived of oxygen for three hours in utero, according to the release.

After the baby was born she was admitted to the newborn intensive care unit on May 19, 2011, and remained there until July 20, 2011, the release states.

The baby sustained a “profound” perinatal anoxic-ischemic brain injury as a result of her delayed delivery and “ineffective resuscitation,” attorneys argued.

The child, now 7, is also quadriplegic and severely spastic. She suffers from seizure disorder and recurrent pulmonary infections. Her nutrition comes through a tube, the release says.

If the baby had been delivered by 2:30 p.m., attorneys argued, there would have been no permanent brain injury.

Esaria-Umpai’s attorneys argued she and the labor and delivery nurses followed the standard of care and there was no reason to deliver the baby any sooner, the release stated.

The defendant neonatologist contended she was called late and the baby’s injuries were due to a fetal maternal bleed that began 12 to 24 hours before delivery, according to the release.

Hurtuk’s attorneys contested that theory citing no corroborating medical records or evidence.

Esaria-Umpai was represented by Kevin J. Vadrine and Christopher J. Solfa of Cunningham, Meyer & Vadrine P.C.

They could not immediately be reached for comment.

The Will County case, which the Law Bulletin was able to independently confirm, is *Amy Hurtuk v. Presence Hospitals, et al.*, 13 L 378.