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Birth injury brings \$15M settlement

By Lauraann Wood
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The family of a young girl who suffered severe brain damage during her delivery has settled its lawsuit for \$15 million.

The girl's parents, Glenise Elam and Lavoy Brown of far south suburban Sauk Village, sued Franciscan St. James Health in Chicago Heights in 2013, alleging nurses overdosed Elam when inducing her labor, causing their daughter Nyelle's injury in November 2011.

Elam had experienced a "perfectly normal" pregnancy leading up to the afternoon she was admitted to St. James for delivery with the use of the drug Pitocin, her attorney Matthew Patterson said.

Pitocin is a synthetic form of the natural hormone Oxytocin which, among other functions, can trigger uterine contractions during childbirth. When administered, the drug functions as a means to help facilitate labor and stimulate contractions.

Patterson said the doctor tending to Elam ordered that she receive Pitocin, but the nurses who administered the drug continued to do so even after Elam's uterus began experiencing too many contractions.

"It really was a situation where the nurses weren't following their own policies and procedures for administering Pitocin, which they admitted during their depositions," said Patterson, an associate at Beam & Raymond.

Elam endured more than nine hours of what her nurses also acknowledged in depositions were excessive contractions while in labor, Patterson said.

Babies generally experience stress and brain compression during contractions, Patterson said, but the resting time between them relieves that stress and allows the placenta to restore the fetus' blood flow.

But experiencing contractions too strongly and too frequently turns them into "a very tight contraction that only releases a little bit" and doesn't give the placenta a chance to restore the blood, he said.

"That's why the resting time in between contractions is so important," he said. "Here there was no reprofusion, so the placenta was constantly being strangulated so it could not reprofuse the baby."

Nyelle was born with a heart rate but required "aggressive resuscitation" and was intubated and transferred to Rush University Medial Center within eight hours of her birth, Patterson said. It was later determined that Nyelle had suffered a brain injury from a lack of oxygen and blood flow to her brain.

Now 6 years old, Nyelle has since been diagnosed with cerebral palsy. And although she is alert and responsive, Patterson said, she will never be able to function independently.

“She does communicate with mom pretty amazingly, but not with words — they just understand each other really well,” he said.

The hospital acknowledged the child’s injury but contended it happened because of a different unknown factor as opposed to an error during delivery, Patterson said.

Cassiday Schade LLP partner Bradford D. Roth, who represented the hospital, declined to comment.

The parties mediated the case but settled after several weeks of continued negotiations, Patterson said. Cook County Circuit Judge Kathy M. Flanagan entered an order dismissing the case Monday.

“The trial was set for September, so time was obviously running out,” he said. “[Nyelle’s] medical care and therapy care is an extraordinary cost that her parents and no normal parents could afford. Their ability to care for this child clearly outweighs the need to go to trial.”

Patterson said the family is happy with the outcome of their lawsuit, but it doesn’t serve as closure.

“There’s nothing that will give Nyelle her brain cells back and no amount of money can replace what happened to her, but to know she will now be able to live comfortably and have the medical care she will need for the rest of her life is a giant weight lifted off of her family,” he said.

Nyelle’s family was also represented by Beam & Raymond partners Jack Beam and Douglas J. Raymond and Geoffrey Fieger, a trial lawyer with Fieger Law in Southfield, Mich.

The case is *Nyelle Brown v. Franciscan St. James Health*, 2013 L 14195.

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