

## REGIONAL NEWS

## Phila. Jury Awards More Than \$2 Mil. for Baby's Death

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*Of the Legal Staff*

A Philadelphia jury awarded more than \$2 million to a baby's parents who argued that their child suffered a preventable brain injury during his birth and the medical providers who delivered him were liable for his death at the age of 16 months.

A jury awarded \$2.15 million Feb. 15 against the Hospital of the University of Pennsylvania and Dr. Peter Chen, finding HUP's nursing care and the care of Dr. Diane Chavkin responsible for 80 percent of the liability for the child's death and Chen 20 percent liable for the child's death, according to court documents. Defendant Dr. Myriam Fernandez, one of the doctors who delivered the baby through Caesarean section, was dismissed from the case because a non-suit motion was granted, according to the court docket.

Judge Frederica A. Massiah-Jackson presided over the trial.

Hyseem Jacobs, the son of Kyra Hatwood and David Jacobs, died Aug. 25, 2007, according to the plaintiffs' pretrial memorandum in *Hatwood v. Trustees of the Hospital of the University of Pennsylvania*. During Hyseem's delivery March 22, 2006, Hyseem had a brain injury because of low oxygen content in his blood and a lack of blood in some parts of his body due to constriction of his blood vessels. Hyseem's brain injury resulted

in cerebral palsy and other conditions.

Hatwood arrived at HUP after the spontaneous rupture of her amniotic sac, the plaintiffs papers said. The plaintiffs argued a first-year resident failed to diagnose that Hyseem was in a transverse position, and almost three hours after Hatwood arrived at the hospital she was administered Pitocin, a drug that speeds up labor, by the order of the first-year resident and with the approval of Chen, the attending physician.

The plaintiffs said Hyseem's position would have been a "contraindication" for the administration of Pitocin to his mother and would have been an indication of delivery by Caesarean section.

About three hours after Hatwood arrived at the hospital, she had increased vaginal bleeding, and Hatwood's caregivers prepared for an emergency Caesarean because of the suspicion that her placenta had detached, the plaintiffs' paper said. Hyseem was delivered almost an hour after his mother's vaginal

bleeding increased and after "late decelerations on the fetal heart monitor was noted."

The plaintiffs alleged that the health care providers took too long to address Hatwood's placental detachment and caused Hyseem to be deprived of oxygen.

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The defendants denied the plaintiffs' allegations that they failed to recognize the signs of Hyseem's distress and failed to perform a timely Caesarean section, according to the defendants' pretrial memorandum. The defendants said that the baby appeared to be fine under all objective criteria until a "softball-sized clot" was observed emerging from Hatwood's birth canal, leading physicians to come to her bedside momentarily.

"Ms. Hatwood was properly and timely treated and her baby monitored and, when an indication for a C-section arose, defendants promptly and properly performed the C-section," the defendants' papers said. "While it is agreed

that plaintiffs' deceased son suffered a brain injury as a result of some event that deprived his brain of oxygen, the evidence clearly shows that the event did not occur during nor as a result of defendants' care."

The defendants also said that blood gases from Hyseem's umbilical cord showed no evidence of acidosis, which they said would indicate an increase in hydrogen ion concentration in the umbilical cord and would be present if Hyseem had a low amount of oxygen during the time his mother was in labor at the hospital. Finally, the defendants said Hyseem's brain injury probably occurred prior to Hatwood coming to the hospital.

The jury awarded \$500,000 for Hyseem's pain and suffering under the Survival Act, \$154,583.73 for past medical and funeral expenses under the Wrongful Death Act and \$1.5 million for loss of society and companionship under the Wrongful Death Act, according to the verdict sheet.

Defense counsel James A. Young, of Christie Pabarue Mortensen & Young in Philadelphia, said his clients and he are disappointed by the jury's verdict. He noted that post-trial motions are filed and they are prepared to appeal if necessary.

Samantha L. Conway also was defense counsel.

Plaintiffs' counsel Richard J. Heleniak, of Messa & Associates in Philadelphia, did not respond to a request for comment. •