

Jury awards family of brain-damaged Contra Costa boy \$12.1 million

By Gary Peterson [Contra Costa Times \(mailto:gpeterson@bayareanewsgroup.com?subject=ContraCostaTimes.com: \)](mailto:gpeterson@bayareanewsgroup.com?subject=ContraCostaTimes.com)

POSTED: 09/19/2014 05:58:58 PM PDT | UPDATED: 2 MONTHS AGO

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MARTINEZ -- A Contra Costa jury on Thursday awarded \$12.1 million to an East County family who alleged in a lawsuit against Contra Costa County Health Services that their son was born with brain damage as a result of medical malpractice.

After a two-month trial, the family of Brian Cuevas was awarded more than \$55,000 in past medical care, \$9.577 million for future medical care, \$2 million for loss of future earnings and \$500,000 for past pain and suffering resulting from negligence by the county in caring for the boy's mother during her high-risk pregnancy in 2008.

"It's a very large number," said Michael Gatto, attorney for the plaintiffs. "Awards are always a function of two things: What does a person need, and what is his life expectancy."

Gatto said the boy, now 6, was born with brain damage that adversely affects his speech and also with diminished motor skills. The jury estimated the boy has a life expectancy of 74 years.

"The defense admitted at trial that he would never be able to live independently and never would be employed," Gatto said.

"We are always saddened by unfortunate medical outcomes, but privacy concerns prevent the Health Services Department from discussing the specific details of this case," said Anna Roth, CEO of Contra Costa Regional Medical Center and Health Centers, in a statement. "We can say that since that time we have made, and continue to make, significant advances in the care we provide to pregnant women."

According to Gatto, Brian Cuevas' mother was assigned a family practitioner unqualified to treat her "1-in-30,000" pregnancy. The mother, the attorney said, was carrying twins in one placenta.

The family practitioner, Gatto said, allowed the pregnancy to continue too long and failed to respond appropriately when an emergency occurred during what was supposed to be a routine prenatal exam at the Pittsburg Health Center on June 27, 2008. Delays in getting the woman to the hospital for an emergency C-section exacerbated the situation, Gatto said, depriving the fetuses of blood and oxygen.

One of the twins died. Later, the attorney said, it was discovered that the family practitioner had altered medical records after the fact and provided false testimony.

The money will be placed in a special trust for the boy, his guardian, Liza Servin, said.

"He may never be normal," Servin said, "but I do believe he will have a much better quality of life with the resources the jury has provided."

Gatto said the pain and suffering award will likely be reduced to \$250,000 to conform to California's cap on general damages.

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