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\$6M settlement in baby case a Bay State record

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WORCESTER— A judge approved a \$6 million settlement agreement yesterday in a medical malpractice suit against three doctors and five nurses over injuries allegedly suffered by a Dudley couple's son at birth.

A lawyer involved in the case said the payout was "the largest pretrial settlement in the history of the commonwealth of Massachusetts in a medical negligence case."

The plaintiffs in the civil lawsuit, Bruce and Susan Hanks and Jacob M. Hanks, by his guardian ad litem (just for the purposes of the lawsuit), Catherine M. Geary, accused the defendants of failing to properly manage Susan Hanks' labor and Dec. 29, 2000, delivery of Jacob at UMass Memorial Medical Center — Memorial Campus, and of not performing a Cesarean section in a timely fashion.

The delay left Jacob without a heartbeat for 20 to 25 minutes and the child, now 7 years old and living at a residential school, suffers from a permanent brain injury and developmental, cognitive and behavioral problems, according to the family's lawyer, Frederic N. Halstrom of Boston.

The defendants in the Worcester Superior Court case, Dr. David Klein, Dr. Paul S. Dunn and Dr. Jacqueline Rendo and nurses Lisa Champagne-Lynch, Maureen Vancelette, Nancy Kolodziejczak, Paula Whynot and Kathleen Clifford, denied any negligence. Their insurers agreed after a series of mediation sessions, however, to pay a total of \$6 million to settle the case, which was scheduled for trial next week, according to court documents.

Mr. Halstrom said the \$6 million, most of which will be placed in a trust for Jacob's benefit, represented the largest voluntary settlement payment prior to trial ever in Massachusetts.

Judge Peter W. Agnes Jr. approved the settlement agreement yesterday. A total of \$5.5 million is to be paid by Commonwealth Professional Assurance Co. on behalf of all of the defendants except Dr. Dunn, whose insurer, Medical Professional Mutual Insurance Co., will pay \$500,000, according to the agreement.

According to Mr. Halstrom, Jacob was delivered by emergency Cesarean section about 9:40 a.m. Dec. 29, 2000, after several hours of attempting to induce Ms. Hanks' labor with a synthetic hormone. Mr. Halstrom said the baby was born with no heartbeat or respirations. He credited the doctors and nurses in the UMass Memorial Neonatal Facility with saving the life of the child Mrs. Hanks calls her "miracle son."

Mr. Halstrom said the defendants in the case attributed Jacob's behavioral problems to an "alleged" diagnosis of bipolar disorder, a condition they said he inherited from his mother. The family's lawyer said the diagnosis was made by a psychiatrist hired by the defense who met with the child for about 30 minutes and reviewed his medical records. None of the boy's treating doctors ever made a similar diagnosis, according to Mr. Halstrom.

The lawyer said Jacob would continue to receive Chapter 766 special education funds until he turns 21.

“After that time, the funds received in settlement will pay for his care for the rest of his lifetime, so that he will not become a ward of the state, homeless or without medical care,” Mr. Halstrom said.

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