

OF COUNSEL

A quarterly report
to clients
and attorneys.

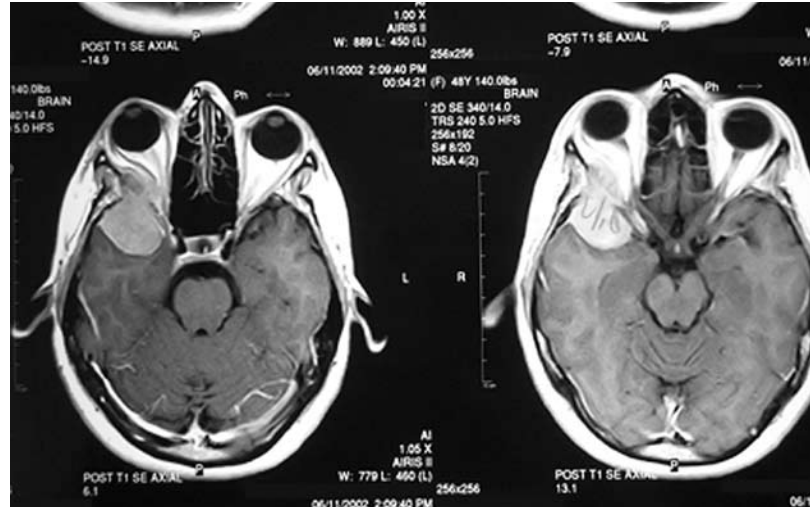
VOLUME 06
NUMBER 2

Brain Injury Caused By Failure to Provide Timely Medical Care

**Mother of four young children
is now totally disabled.**

On May 30, 2002, Mrs. A underwent surgery for removal of a meningioma, a slow-growing tumor that often causes damage to the brain. The surgery was performed by Dr. X, and lasted about ten hours. Shortly after surgery, Mrs. A was placed in the post-anesthesia care unit under the care of Nurse Y, a registered nurse with years of experience.

When Mrs. A was first examined by Nurse Y, her neurological condition was excellent. Her Glasgow Coma Score was 14 out of a possible 15 – indicating that Mrs. A was responding appropriately to standard stimuli by opening her eyes and mouth, or otherwise responding. Her Patient at Risk (PAR) score in the care



Above, brain scan showing tumor.

unit was 9 out of 10, an excellent score following surgery of this nature. Nurse Y later testified that Mrs. A's neurological condition improved the whole time she cared for her, and that when she handed the patient over to Nurse Z, things were going very well.

Nurse Z then took responsibility for the care of Mrs. A. Over the next several hours, Mrs. A's neurological condition took a precipitous **(Continued on page six.)**

Undetected Problem at Birth Results in Brain Damage

Baby Girl was born at a hospital in south Florida under the care of a well-known obstetrician-gynecologist. The pregnancy had been at high risk due to the age of the mother and multiple prior miscarriages. During the pregnancy, there were multiple ultrasounds performed on the fetus and each examination indicated everything was normal and that Baby Girl would be a healthy newborn.

In March 1999, at 35½ weeks pregnant, the mother suffered a premature rupture of her membrane. She was admitted to the hospital and Baby Girl was born via

spontaneous vaginal delivery. During the labor and delivery the mother requested that a cesarean section be performed because she was in tremendous pain. The Apgar scores – an index evaluating the newborn infant's condition at birth – were recorded as excellent. The only abnormalities noted were the placenta and spinal cord; they were described by the OB/GYN as being abnormal in appearance. The umbilical cord was lost and there was no pathology examination performed on it. Otherwise, Baby Girl was described as in excellent health yet, shortly after birth, **(Continued on page seven.)**

Brain Injury Caused by Failure to Provide Timely Medical Care

(Continued from page one.)

turn for the worse. Her Glasgow score for responding to stimuli fell from 14 to 12, then to 11, and finally to 6. Instead of progressing toward becoming a fully-responsive patient, Mrs. A deteriorated in her ability to move or respond. As the patient's condition worsened over several hours, Nurse Z took no action. She did not call Dr. X, she did not call the emergency room for assistance, and she took no other action to minimize her patient's risk of permanent, irreversible brain damage. At 5:15 a.m. the next morning, May 31st, some five hours after the first, clear signs of deterioration of the patient, Nurse Z called Dr. X, who ordered a CAT scan of Mrs. A's brain.

Dr. X's deposition was most telling. Prior to his testimony in this action, he apparently had no knowledge about what had taken place – or what had not taken place – regarding the care of his patient following surgery. When the truth was revealed, Dr. X testified that Nurse Z did not provide the accepted standard of care for Mrs. A, and that Nurse Z should have called him much sooner. Dr. X also acknowledged that the delay contributed to massive, irreversible brain damage to the patient.

At 7:00 a.m. on May 31st, Dr. X received the results of the CAT scan which revealed fluid build-up in Mrs. A's brain. He ordered the nurse to immediately give Mrs. A mannitol, a medication that reduces vascular pressure. Mannitol is often used as a temporary measure to reduce pressure until surgery can be performed. As is well known, time is of the essence in responding to swelling in the brain.

For some unknown and unjustifiable reason, the mannitol was not given to the patient until 9:30 a.m., approximately 2½ hours after the doctor's order for immediate treatment. Pharmacists at the hospital later testified that the medication mannitol is supplied on the care unit in the hospital, and that it is a simple matter for nurses to obtain it quickly. In fact, it is standard procedure for nurses to use the unit's supply of mannitol in responding to orders such as that given by

Dr. X. The treatment was not provided, and the failure of the nursing staff was indefensible.

The nurses, however, were not the only ones to blame. After ordering the scan for Mrs. A at 5:15 a.m., Dr. X went back to sleep. At 7:00 a.m., when he was told of the results of the scan, he ordered an immediate treatment of mannitol for Mrs. A, but failed to request a pressure monitor to continue oversight of his patient or to follow up on his request for medical treatment. Had Dr. X conscientiously followed up on the evaluation and care of his patient, Mrs. A would likely have received the medical treatment and possible surgical intervention in sufficient time to make a difference to her life. Dr. X bears a fair share of responsibility for the failure to provide proper care for Mrs. A.

The wrong done in this case not only affected Mrs. A, it affected her entire family. Her husband and their four children share the burden every day. At the time that this tragedy occurred, Mrs. A was 40 years old. She and her husband had been married for 13 years. Both Mr. and Mrs. A had been born in the West Bank in the Middle East. Mr. A had come to the United States 17 years ago to attend college,

and had struggled to obtain a good job after graduation. He eventually moved to Florida to work with friends and family. He returned to his home in the West Bank to marry and bring his new wife, a religious studies teacher, back with him to their new home in the United States. Both Mr. and Mrs. A became U.S. citizens. While Mr. A worked 60 hours a week, Mrs. A was a stay-at-home mom, making sure that her husband and the children were well cared for, and that the children were properly tutored in their studies. At the time of Mrs. A's surgery, their children were seven, nine, eleven and twelve years of age.

Following surgery and the tragic lack of proper care, Mrs. A now lives in a nursing home, her brain dysfunctional, her every daily need the task of professional caretakers. She cannot care for herself, and certainly can no longer care for her family. She has difficulty recognizing her own family, including the husband who loves her, and her response to them is painful to bear. She suffers from anxieties that include the feeling of abandonment. Mr. A must still work long hours to provide the *(Continued on page seven.)*



Confidential Settlement

MEDICAL MALPRACTICE:
BRAIN-INJURED
MOTHER

(Continued from page six.)

resources necessary to sustain his family. The children now raise themselves – they are depressed, angry, and in need of support.

When Mr. and Mrs. A came to the United States, they believed in the American dream of life, liberty and the pursuit of happiness. Her loving family life, her liberty, and certainly the entire family's pursuit of happiness were abruptly severed by the tragic failure on the part of medical personnel to provide appropriate, professional care and concern.

“When the truth was revealed, Dr. X testified that Nurse Z did not provide the accepted standard of care for Mrs. A, and that Nurse Z should have called him much sooner. Dr. X also acknowledged that the delay contributed to massive, irreversible brain damage to the patient.”

Struggling with his new and greater responsibilities and the difficulties faced by his wife and children, Mr. A sought representation by Sean Domnick and Lance Block of Searcy Denney Scarola Barnhart & Shipley. A medical malpractice action was filed in January 2005. The trial began on May 1, 2006, and the action settled for a confidential amount as opening statements were about to start. ■

Undetected problem at birth causes brain damage.

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Baby Girl was admitted to the hospital's neonatal intensive care unit, where she was treated for several weeks for intrauterine growth retardation, swallowing difficulties, apnea, gastroesophageal reflux, hyperbilirubinemia, and possible sepsis.

Baby Girl was then transferred to a teaching hospital in south Florida. There, she was observed to be suffering from hypotonia, anemia, gastroesophageal reflux, and feeding problems. During this time, Baby Girl underwent a genetics evaluation which concluded that she was not suffering from any congenital defects which would explain the presence of hypotonia, anemia, gastroesophageal reflux or feeding problems.

After discharge from the teaching hospital, Baby Girl was followed by a pediatric neurologist. Approximately one year after birth, Baby Girl underwent a magnetic resonance imaging (MRI) of the brain. The MRI revealed that her brain was abnormal. Two years later, Baby Girl underwent a second MRI which indicated “moderate hypoxic/ischemic encephalopathy”. This interpretation of the MRI indicated that Baby Girl had experienced a reduction of oxygen around the time of birth, resulting in significant brain damage. She is now totally disabled.

Chris Searcy and David White of Searcy Denney Scarola Barnhart & Shipley settled this case during mediation for a substantial amount of money. The settlement will help provide security for Baby Girl's future in terms of medical care, custodial treatment, and lost earning capacity. ■

Confidential Settlement

MEDICAL MALPRACTICE:
UNDETECTED PROBLEM
RESULTS IN BRAIN INJURY

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