

Insurance Covers Mother for Negligence Causing Brain Injury To Her Fetus

Attorneys Chris Searcy and David White represented Kara Goodman, the severely brain injured daughter of Terry and Barbara Goodman, in a lawsuit filed by National Casualty Company in Miami, Fla. National Casualty Company requested that the trial court declare that there was no liability insurance of \$1 million covering Mrs. Goodman, who was 7-months pregnant, when she negligently operated her motor vehicle on July 21, 1994 in Coconut Grove, Fla. The automobile accident required the performance of a Caesarean section and the delivery of Kara. At the time of her birth, Kara suffered from a severe injury to her brain caused by the automobile accident.

*For the first time, Florida law will allow
the recovery of damages for prenatal injuries
sustained by the child against the mother
up to the limits of the
insurance coverage.*

After three days of trial, Judge Norman Gerstein, on July 10, 2000, entered judgment against National Casualty Company and in favor of Kara holding that insurance coverage exists for damages sustained by a fetus caused by the negligence of her mother up to the limits of the available insurance coverage. On Sept. 20, 2000, Judge Gerstein entered judgment in favor of Kara and against National Casualty Company in the amount of \$1 million.

National Casualty Company filed an appeal with the Third District Court of Appeal, State of Florida. The Third District Court of Appeal affirmed Judge Gerstein's judgment on Dec. 19, 2001, recognizing, for the first time, that Florida law will allow the recovery of damages for prenatal injuries sustained by the child in a lawsuit filed against the mother up to the limits of insurance coverage. Thereafter, National Casualty Company filed a Petition for Writ of Certiorari with the Florida Supreme Court. While the Petition was pending, a settlement was reached with National Casualty Company for the payment of \$1 million plus attorney's fees, interest, and costs. ■