

SOUTH CAROLINA Lawyers Weekly

\$2.2M settlement in suit over baby's botched delivery

By: Phillip Bantz ⌚ June 9, 2015

After catching a doctor in a lie during her deposition, lawyers representing a young woman whose baby was born with brain damage and later died have negotiated a \$2.2 million settlement that maxed out the two insurance policies at play, those attorneys report.

One of the plaintiff's lawyers, David Yarborough of the Yarborough Applegate Law Firm in Charleston, said the doctor at the center of the case claimed she waited to deliver the baby by C-section because the 19-year-old mother withdrew her consent to have the operation performed.

"It was a lie and I have no problem saying that she was a liar," Yarborough said. "It was the craziest thing. I never expected her to say that. It was nowhere in the records. I'm taking her deposition and all of a sudden that's her explanation."

The lawsuit alleged that the doctor and other medical providers involved in the birth waited too long to deliver the baby while his brain was being deprived of blood and oxygen. He died in January 2014, 18 months after he was born.

The doctor and her lawyers contended that she did nothing wrong. But the doctor's insurer paid \$1.2 million and the hospital's insurer kicked in another \$1 million to settle the suit on May 8, according to Yarborough.

Citing a confidentiality provision in the settlement, Yarborough declined to provide any identifying information about the defendants or his client. He mediated the case with his law partners, William Applegate and Douglas Jennings. Douglas Jennings Jr. and Mason King of the Jennings Law Firm in Bennettsville also represented the mother.

Yarborough said all the nurses, the mother, and family members who were in the delivery room said the mother had not withdrawn her consent to have a C-section. Her medical records also did not indicate that she declined the procedure.

And despite her deposition testimony, the doctor had said nothing about the mother withdrawing her consent when she had a meeting with colleagues to discuss what went wrong during the delivery, according to Yarborough.

The meeting was confidential, but Yarborough knew that the baby's pediatrician had been in the room. Still, he couldn't ask the pediatrician about what was said during the meeting. Instead, he asked the pediatrician if he had ever heard anyone say the mother turned down the C-section prior to the doctor's deposition. He had not.

"You're having a meeting to try to figure out what happened and the doctor doesn't even bring up that this patient withdrew her consent for a C-section," Yarborough said. "It's unbelievable that anyone would even think that would be believed by anybody."

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SETTLEMENT REPORT – MEDICAL MALPRACTICE

Amount: \$2.2 million

Injuries alleged: Brain damage, death

Case name: Withheld

Court: Withheld

Date of settlement: May 8

Most helpful experts: Dr. Yvonne Gomes-Carrion of Harvard Medical School; Dr. Christian Cook of Charleston; Dr. Joseph Philips of university of Alabama at Birmingham; and Judith Poole, nursing expert

Attorneys for plaintiff: David Yarborough Jr., William Applegate and Douglas Jennings of the Yarborough Applegate Law Firm in Charleston; and Douglas Jennings Jr. and Mason King of the Jennings Law Firm in Bennettsville

Attorneys for defendant: Withheld

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SETTLEMENT

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