



# PROFESSIONAL NEGLIGENCE LAW REPORTER

**October 15, 2013**

## **CASE IN POINT**

### **Excessive traction during delivery**

Suit alleged that a hospital intern used excessive traction when he encountered shoulder dystocia during a delivery and that he and an attending nurse failed to timely call the treating obstetrician in light of fetal distress. The jury awarded \$12.9 million. *Bryson v. Tracy*.

Libbey Bryson was admitted to the Genesys Regional Medical Center in the 37th week of her pregnancy and underwent an induction of labor three days later. The treating obstetrician left the hospital, leaving Bryson in the care of nurses, a resident, and various interns. During the last five hours of the 15-hour labor, the fetal monitor showed signs of fetal distress, including tachycardia, diminished variability, and decelerations. Bryson was repositioned and administered oxygen.

When Bryson was completely dilated, staff called the obstetrician to come to the hospital; however, she did not arrive in time for the delivery. As Bryson's daughter was delivered by an intern with assistance from a nurse, shoulder dystocia occurred. The on-call obstetrician and a senior resident then came to the delivery room and implemented a series of maneuvers to complete the delivery.

Bryson's daughter suffered a severe brachial plexus injury, resulting in Erb's palsy. Her Apgar scores were four at one minute and eight at five minutes. Now 6, she has undergone two surgeries and has limited use of her right arm and hand despite ongoing physical and occupational therapy.

Bryson, on behalf of her daughter, sued the hospital's owner, alleging that its intern used excessive traction when shoulder dystocia was encountered and that he and the attending nurse failed to timely call the treating obstetrician in light of the fetal distress. Had the obstetrician been notified, the plaintiff argued, she could have undergone a timely cesarean section.

The jury awarded \$12.9 million.

**Citation:** *Bryson v. Tracy*, No. 10-92893 NH (Mich., Genesee Co. Cir. Sept. 27, 2013).

**Plaintiff counsel:** AAJ member Brian J. McKeen and Richard Couman, both of Detroit.