

Los Angeles Times
May 11, 2002

Jury Awards Injured Child \$43.5 Million

Lawsuit: Boy was left brain-damaged after monitoring devices in his hospital crib were either disconnected or turned off, attorney says.

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A jury in San Bernardino has awarded \$43.5 million to a 19-month-old boy left brain-damaged after monitoring devices in his hospital crib were either disconnected or turned off, his attorney said Friday.

Eric Brown Jr., who was 4 months old when the incident occurred, is conscious but only minimally responsive, said his family's attorney, Bruce G. Fagel. Eric will never walk or talk and must be fed through a tube because he is unable to swallow, Fagel said.

Last month, before the trial began, Community Hospital of San Bernardino admitted liability, leaving it up to the San Bernardino Superior Court jury to decide the amount of damages.

Hospital officials declined to discuss the case Friday, but they issued a statement expressing sympathy for Eric and his family and said steps had been taken "to prevent a situation like this from occurring in the future."

Fagel said most of the award will be used to provide around-the-clock nursing care for Eric. The \$5 million portion of the judgment awarded by the jury for pain and suffering probably will be reduced to \$250,000, the maximum allowed under California law, Fagel said.

The attorney said the boy was admitted to the hospital in February 2001 with an upper respiratory infection.

"It was not the sort of thing that should have given rise to any major problem," Fagel said, "but his parents decided to stay with him around the clock."

Three days later, after the boy's condition improved, the parents, Eric and Sara Brown, decided it was safe to return to their home in San Bernardino. Fagan said Eric remained in his crib in the hospital's pediatric ward, hooked up to sensors that monitored his breathing and heartbeat.

The attorney said that although a nurse says she left the infant on his back and breathing normally, Eric somehow ended up on his stomach. And for some reason, the monitors that would have sounded an alarm if Eric's breathing or heartbeat failed were not attached, Fagan said.

"Lying on his stomach, his breathing was impaired," Fagan said. "We estimate there was some respiratory compromise for about 40 minutes, either breathing inadequately or not at all."

The infant had turned blue by the time a nurse found him, Fagel said. Eric was resuscitated and transferred to Loma Linda University Medical Center, where specialists determined that he had suffered hypoxic brain damage.

Because of the severity of that damage, a neurologist recommended that the child be allowed to die, Fagel said. The attorney said Eric's parents agreed initially to a "do not resuscitate" order, but later changed their minds.

Round-the-clock nursing care was provided for Eric at the family home after insurance carriers agreed to pay for four hours a day and the hospital agreed to pay for the other 20, Fagel

said. He said that after the family turned down a \$2.5-million settlement offer from the hospital, the hospital stopped its payments.

The trial of the family's lawsuit, which was filed last year, began in April. The jury issued its verdict on Thursday.