

Cerebral Palsy

Douglas Birch, a minor, by and through his next friend, parent and natural guardian, Donna Birch, and Donna Birch, individually, and Basil Birch, individually, v. Miguel A. Albert, M.D., Miguel A. Albert, M.D., P.A. and Hialeah Hospital, Inc.

Jury Verdict: \$18,376,250.00

Donna Birch was an obstetrical patient of Dr. Miguel Albert. Donna Birch ruptured her membranes after thirty-two weeks gestation and was admitted to Hialeah Hospital for observation. She went into premature labor four days later and her baby was delivered by the nurses at the hospital. There was no obstetrical physician available at the delivery. Plaintiffs alleged that the defendant obstetrician, Dr. Albert, was negligent in failing to attend the delivery of Donna and Douglas Birch who were high risk patients, and further, claimed that the nurses at Hialeah Hospital were negligent because they failed to obtain an obstetrical physician to attend the high risk delivery. As a result of a mismanaged delivery, Douglas Birch unfortunately sustained extensive brain damage and has been diagnosed as suffering from cerebral palsy and has a seizure disorder. Douglas today is totally dependent on his family and healthcare providers for all of his activities of daily living, and is 100% disabled. This trial lasted one week and a half after plaintiffs settled with the hospital. The jury returned a verdict in the amount of \$15,924,000 and \$1,500,000.00 each for his parents, Donna Birch and Basil Birch. Plaintiff had entered into a prior settlement with Hialeah Hospital, the amount of which is confidential. Manuel Epelbaum and Robert J. Dickman were the trial attorneys in this case.

John Doe v. Mount Sinai Hospital

Settlement: \$6,500,000.00

This case involved nursing negligence by staff at Mount Sinai Hospital. The plaintiff was in the well baby nursery within the first day of birth and nursing staff failed to detect that the baby was having apnea spells and by the time she was found, she had gone into full arrest. Plaintiffs were able to prove that the nursing staff in the well baby nursery at Mount Sinai Hospital did not follow their own protocols and properly attend to and properly resuscitate the baby. As a result, the baby suffered severe hypoxia to the brain resulting in permanent brain injury and cerebral palsy. This case was litigated by Robert J. Dickman and Manuel Epelbaum and was settled at mediation shortly before trial.

Gaiqui v. Ronald C. Dudan, M.D.

Jury Verdict: \$3,900,000.00

Robert J. Dickman and Manuel Epelbaum tried this case and were successful in proving that the defendant obstetrician failed to properly manage the labor and delivery resulting in delayed vaginal delivery of the baby. As a result of the delay in delivery, the baby suffered significant brain injury resulting in cerebral palsy. As a result of the verdict, plaintiff successfully proceeded to recover monies in excess of the policy limits in a bad faith lawsuit. Plaintiffs settled with the defendant hospital for a confidential amount.

Burley v. XYZ Hospital

Settlement: \$3,000,000.00

Christian Burley was born on July 12, 1998 in Atlanta, Georgia and today suffers from severe cerebral palsy as a result of problems, which developed during labor or immediately after birth. Plaintiff sued the hospital alleging that the nursing staff failed to properly evaluate non-reassuring fetal heart monitor tracings during labor. As a result of the failure to properly evaluate the fetal heart monitor tracings, the baby was delivered vaginally suffering from hypoxia and its sequelae. Plaintiff alleged that the failure to perform cesarean section timely resulted in injuries to the child. This case was litigated by Robert J. Dickman.

Jabs v. Manatee Memorial Hospital and United States of America

Settlement: \$2,700,000.00

Sarah Jabs went into premature labor at thirty weeks while visiting family in Florida. Ultrasounds showed that the baby was in a transverse position which meant that the baby was lying perpendicular to the mother, which mandated a cesarean section delivery. Only a vertex or vertically aligned fetus can deliver vaginally. Plaintiffs alleged that the obstetricians in this case utilized the wrong incision when they made a transverse incision, eventually requiring a second and third incision delivering the baby. During this process, the child unfortunately suffered extensive trauma which resulted in permanent neurological injuries. The baby's traumatic birth resulted in an ischemic injury to his brain, which has rendered him totally disabled today. This case was settled at mediation shortly before trial. This case was litigated by Robert J. Dickman and Manuel Epelbaum.

Tice v. XYZ Obstetricians

Settlement: \$2,550,000.00

Mrs. Tice underwent an amniosentesis for suspected intrauterine growth retardation as a result of a negligently performed sonogram. Following the amniosentesis, the mother became infected with staph infection and went into premature labor at thirty seven weeks. Further injury was caused by a delay in a cesarean section resulting in permanent injury to the baby. This case was litigated by Robert J. Dickman and Manuel Epelbaum.

Jane Doe v. XYZ Hospital

Settlement: \$2,500,000.00

Plaintiff was born uneventfully by vaginal delivery and approximately six hours after birth was found by a nurse to be blue and unresponsive. A code was called and the baby was resuscitated and eventually transferred to Miami Children's Hospital for several months. Unfortunately, this baby suffered severe and extensive brain injury and is today totally disabled. Plaintiffs alleged that during the time period that the baby was in the well baby nursery, the nurse either dropped the baby or allowed blunt trauma to occur to the baby's head as evidenced by subsequent x-rays showing soft tissue injury. In addition, Plaintiff suffered an extensive brain bleed in the area where the soft tissue injury was visible on plain films. Defendants denied that any blunt trauma was suffered by this baby and defended this case vigorously and retained twelve experts against the Plaintiff. Despite the fact that there was no direct evidence of blunt trauma to the baby's head and the nurses adamantly denied that any incident or injury had occurred to the baby, Plaintiffs were able to settle this case immediately before trial. This case was litigated by Robert J. Dickman and Manuel Epelbaum.

Wims v. Dr. Kronstadt

Jury Verdict: \$2,500,000.00

Plaintiff was born premature by vaginal delivery. At the time of the delivery, while the mother was having severe contractions, the baby was delivered explosively and fell through the obstetrician's hands landing on the hospital floor. Plaintiffs were able to show the Defendant doctor attempted to hide the fact that the baby was dropped on the floor and had charged hospital. A jury returned a verdict on behalf of the mother and father for the injuries suffered by this baby, which tragically, lead to his death approximately one year after birth. This case was litigated and tried by Robert J. Dickman and Manuel Epelbaum.

McDaniel v. XYZ Hospital

Settlement During Trial: \$2,500,000.00

The McDaniel case was settled after one week in trial. Robert Dickman cross-examined the Defendant doctor in this case and Defendants immediately sought to settle the case for Plaintiffs' demands. The case involved the improper use of pitocin resulting in the mother suffering titanic contractions leading to the baby's suffering anoxia in utero. The improper use of pitocin and the failure to timely notify the physician of the titanic contractions and ominous fetal heart monitor tracings resulted in delayed delivery of the baby resulting in permanent injuries to the baby. This case was tried in Atlanta, Georgia and was vigorously defended by the defense. In fact, several appeals were taken during the trial. The McDaniel decision, in fact, resulted in the appellate courts in Georgia redefining what "standard of care" of a physician is and how it is to be proven in the court of law. The decision was favorable to Plaintiffs and reversed an earlier granting of summary judgment against the Plaintiffs in this case. As a result of the McDaniel decision, it is much easier for a plaintiff to prove that a physician departed from the appropriate standard of care under Georgia law. This case reflects that in many situations, a specific case can result in a rewriting of the law that is more favorable to the plaintiff and/or the writing of guidelines, policies and procedures in hospitals to protect patients. This case was litigated by Robert J. Dickman.

Martin v. XYZ Hospital

Settlement: \$2,200,000.00

This is an obstetrical malpractice case wherein a timely cesarean section was not done resulting in permanent brain injury to the child. This case settled during trial. This case was litigated by Robert J. Dickman and Manuel Epelbaum.

Williamson v. Defendant OBGYNs

Settlement: \$2,000,000.00

This case was settled after two days of trial. The Plaintiff in this case, Kristen Williamson, suffered a brain injury resulting in loss of motor use and rendered quadriparetic. The child did not suffer any brain injury affecting her cognitive abilities and is today thriving and is a collage student. The settlement in this case provided sufficient monies to assist Kristen for the remainder of her life in light of her handicap. This case was litigated by Robert J. Dickman.

Adams v. XYZ Hospital

Settlement: \$1,600,000.00

This is an obstetrical malpractice case alleging failure to assess fetal heart monitor tracings, improper use of pitocin and failure to do a timely cesarean section. Plaintiff suffered brain injury resulting in an epileptic disorder. Plaintiff suffered permanent brain injury for the rest of his life. The case settled immediately before trial. This case was litigated by Robert J. Dickman and Manuel Epelbaum.

Pierre v. XYZ Hospital

Settlement: \$1,400,000.00

Plaintiff presented to the emergency room with high blood pressure and signs of an impending heart attack and was improperly treated in the emergency room. While in the emergency room, the hospital suffered a power outage and hospital personnel did not have the adequate policy and procedures and adequate equipment to properly attend to a respiratory and cardiac failure which the Plaintiff underwent. The Plaintiff suffered brain injury, which led to her death. This case was litigated by Robert J. Dickman and Manuel Epelbaum.

Daniels v. XYZ Hospital

Settlement: \$1,000,000.00

Plaintiff claimed injury to their child while being attended to by the nurses at XYZ Hospital as a result of their failure to adequately assess and monitor the labor of Deborah Daniels resulting in injury to the baby. This case involved the use of a medication called cervidil, which was contraindicated in light of the mother's multiparous and large baby. As a result of the failure to properly attend to the mother, the mother suffered significant bleeding resulting in brain damage to the child. This case was settled prior to trial. This case was litigated by Robert J. Dickman and Manuel Epelbaum.

Martin v. XYZ Hospital & OB GYNs

Settlement During Trial: \$1,000,000.00

This case involved improper use of pitocin and the failure to do a timely cesarean section resulting in permanent brain injury to the child. Anthony Martin has defied all the odds and although the defense physician examiners in this case felt that the child only had a life expectancy of two to three years, Anthony is now twenty-six years of age and thanks to the settlement in this case, lives a full life. This case was settled after two weeks of trial. This case was litigated by Robert J. Dickman.