

Suit: Midwife's failure to call for backup caused nerve damage

by North Carolina Lawyers Weekly Staff

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This was a shoulder dystocia case involving a little boy who had been delivered by a midwife.

The basic allegations of the case were that the midwife had failed to call in her backup physician to help with the delivery once shoulder dystocia was diagnosed and that she had pulled too hard on the child's head during the delivery, causing the nerves of the brachial plexus to be torn. The nerves of the brachial plexus control the use of the arm. The testimony from the child's treating surgeon and treating physical therapist was that the child had a moderate brachial plexus injury.

The defense had six standard-of-care expert witnesses and a rehabilitation doctor who testified about damages. The plaintiff had two standard-of-care witnesses. The plaintiff also presented testimony from the surgeon and the physical therapist regarding damages.

The plaintiff's attorney has been told that this is the first shoulder dystocia case that has been won at trial in North Carolina.

Verdict Report

Type of action: Medical malpractice

Injuries alleged: Brachial plexus injury

Case name: *Ratliff v. Neiman and Triangle Ob-Gyn*

Case number: 08 CVS 1373

Court: Johnston County Superior Court

Judge: Hon. Marvin K. Blount III

Verdict or settlement: Jury verdict

Date: Jan. 27, 2011

Amount: \$950,000

Special damages: \$200,000 (medical bills)

Offer: No offer was ever made.

Insurer: MAG Mutual

Were liability and/or damages contested? Yes

Was the opposing party represented by legal counsel? Yes

Has the plaintiff been successful in actually collecting the judgment? Yes

Plaintiff's attorney: Bailey Melvin of The Melvin Law Firm (Greenville)

Editor's note: *The information in Lawyers Weekly's verdicts and settlements reports was submitted by the counsel for the prevailing party and represents the attorney's characterization of the case.*

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