



Center for Justice & Democracy
80 Broad St., 17th Floor
New York, NY 10004
Tel: 212.267.2801
Fax: 212.764.4298
centerjd@centerjd.org
<http://centerjd.org>

For information, contact:

Joanne Doroshow, 212/267-2801; Pamela Gilbert, 202/789-3960; Gina Cioffi, 347/680-2938

VICTIMS OF OBSTETRICAL MALPRACTICE - NEWS CONFERENCE, FEBRUARY 24, 2004

Colin Gourley
Valley, NE



Ten-year-old Colin Gourley suffered terrible complications at birth as a result of a doctor's negligence. He has cerebral palsy. He cannot walk. He could not speak until he was five. Irregular brain waves and the amount of time he has spent in a wheelchair have affected his bone growth. He has been through five surgeries and needs to sleep in a cast every night to prevent further orthopedic problems. His twin brother, Connor, survived without injury.

A jury ruled that Colin was a victim of medical negligence, finding that \$5.625 million was needed to compensate him for his medical care and a lifetime of suffering. The Nebraska law – a cap on damages – severely cut this jury verdict to one quarter of what Colin will need. As a result, Colin will have to rely on the state for assistance for the rest of his life. His family had to move from their home to pay for his care. Colin's mother Lisa says, "Nebraska's cap on

damages, enacted at the behest of the insurance industry, has been devastating to our family. My husband and I worry constantly about Colin's future and how our family of six will make ends meet."

Tyler Roscoe
Florence, SC



Tyler's mother, Shannon Hughes, was having a long and difficult labor. The doctor was called repeatedly and finally showed up at her 35th hour of labor. At 37 hours the doctor performed an emergency C-section. The umbilical cord was twice wrapped around the child's neck. Tyler suffered cardiac arrest for 18 minutes. As a result, Tyler, who is now 7 years old, is severely brain-damaged and bedridden. He must be turned every two hours, is fed through a tube, suffers seizures daily and is non-communicative. The family settled for a confidential sum.

Shannon says, "I will never hear my child call me mom or tell me he loves me or even a hug. I only know my child is content and not suffering when he is asleep or lying in bed not crying. All I can do is pray that when I wake up in the mornings that he is still breathing and I can caress his head and tell him good morning. My son has no future but pain and suffering. No politician in Washington has the right to decide what is proper compensation for him."

Nathaniel Johns (malpractice happened in Washington State)
Inver Grove Heights, MN



8-year-old Nathaniel Johns suffered brain damage from jaundice when he was six days old after a nurse, who knew that the baby wasn't eating and his skin was turning yellow, failed to tell his mother that he should be taken to a doctor immediately. The child now suffers from cerebral palsy, requires a wheelchair and may never be able to feed himself. Nathaniel's parents sued several pediatricians, who had been consulted by the parents, as well as the hospital, charging that their son's injuries were caused by a failure to diagnose and treat his condition and by a failure to fully inform the parents of the seriousness of the child's condition. The doctors settled before trial for undisclosed amounts. The jury awarded over \$10 million to Nathaniel and \$540,000 to his parents; the hospital did not appeal the verdict.

Nathaniel's mother Jodie says, "I have the utmost respect for many doctors, but I am also appalled at the fact that the very doctor who denied my son the care he needed went back three days later and changed the hospital records to protect herself. Now, because our son has been injured, we must count on the health care system every single day to keep our baby alive. My son will have a lifetime of health care challenges."

Alexandra Katada
McKinney, Texas



During the birth of Sandra's daughter Alexandra, the doctor contorted and stretched Alexandra's spine, destroying her nerves and leaving her partially paralyzed. The doctor applied so much force that, in addition to the spinal injury (which would prove fatal), the baby's elbow was broken and pulled from its socket. Some of the damaged spinal nerves were responsible for stimulating the growth of her rib cage. But because the nerves were damaged, her ribs did not expand, and when the rest of her body grew over the next several months she suffocated inside her small rib cage. Alexandra died on Valentine's Day, 1994, at age eight-months. The Katada's settled the case against the doctor for the insurance company's policy limit, one million dollars.

A *Dallas Morning News* investigation found that two other babies in this doctor's care had died in the three years before the Katadas' and another died after their baby died. In one of those cases, by the time the parents found out that this doctor had caused their baby's injuries, it was too late to go to court because the two-year statute of limitations had run. All the families complained to the Texas Medical Board about this doctor but he is still practicing.

Sandra Katada says, "If the first time this happened someone had stopped my doctor from practicing, there would have been three more babies who had lived. Senate bill S. 2061 does nothing to address the issues that led to the death of my daughter. It may help insurance companies increase their profits, but it will punish people for being victims of medical malpractice."

Ian Malone
Everett, WA



Ian suffered severe brain damage at birth after a doctor used a drug to induce labor that the manufacturer explicitly warned should not be used for that purpose. Ian cannot hold his head up, suck, swallow or gag properly and requires 16 hours of nursing care per day. He eats through a feeding tube in his abdomen, breathes with a ventilator, takes medication daily to prevent seizures and needs a sedative to sleep. The family sued the doctor, who already had a number of medical malpractice cases filed against him. The Malone's case is still pending.

Ian's father Dylan says, "If you want to lower the cost of medical malpractice insurance, lower the incidence of malpractice. My son was injured by a doctor who has hurt others before, and others since, and he continues to practice. A small fraction of doctors cause the lion's share of injuries; address that and you make healthcare safer and more affordable in one stroke."

Justin Mattes
Woodcliff Lake, NJ



25-year-old Justin Mattes suffers from cerebral palsy after his mother's obstetrician failed to get basic information about the baby's position and allowed a vaginal delivery to go forward with the baby in a breech position (i.e. feet first) without taking steps to protect the baby's health. This caused Justin's umbilical cord to be compressed, preventing him from getting oxygen. He was born blue and had to be resuscitated; he also had seizures the following day. As a result, Justin has had difficulty walking, talking, eating and getting dressed. His parents did not file a lawsuit at the time Justin was born. He filed a lawsuit once becoming an adult, at age 19, and settled the case before trial for the doctor's policy limit of \$500,000. (This policy limit was based on the 1978 economy, worth approximately \$100,000 in today's dollars.)

Justin says, "I am a victim of medical malpractice. I have cerebral palsy because my mother's obstetrician committed medical malpractice in the way he handled my mother's delivery when I was born. A \$250,000 cap on noneconomic damages would take away the only opportunity a person like me, who has suffered a permanent disability because of a doctor's medical malpractice, has to live with some amount of independence and to enjoy some of the normal dignities of life. A \$250,000 cap on pain and suffering damages if applied to my case would not even begin to compensate me for the daily pain and suffering I have already experienced in my life, much less what I will continue to experience. For example, I had terrible trouble at school, especially with teasing. My mom had to fight to keep me in regular classes. I have had people say that I am retarded just because my speech sounds funny. A disability like mine causes a lot of emotional damage."