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Hospital told to pay \$59M to 3-year-old Jury finds John Muir's actions negligent before Bay Point girl's birth

By Claire Booth

TIMES STAFF WRITER

MARTINEZ — A jury found John Muir Medical Center negligent and awarded \$59.3 million to the family of a Bay Point toddler injured during birth at the hospital.

Caitlin Greenwell has severe cerebral palsy because of actions nurses took just before her birth, said the family's attorney, Bruce Fagel.

In order to generate that \$59.3 million over the next 62 years that Caitlin is estimated to live, the jury decided the hospital will have to pay an actual amount of \$7.85 million.

Under California law, because the girl is a minor, the court will supervise the investment of that amount, one of the largest ever for a Contra Costa County medical malpractice case, Fagel said.

Although the Contra Costa Superior Court jury found the John Muir Medical Center responsible, it did not hold obstetrician Alan Kaplan liable, Fagel said.

The Greenwells also had sued Kaplan, but by a 9-3 vote jurors decided the doctor was not negligent in his actions on Oct. 21, 1999, Fagel said. A nine-juror majority is needed for a civil verdict.

Finding against a hospital but in favor of a doctor — who traditionally is thought of by jurors as the one in charge of a medical situation — is unusual, said Fagel, an experienced medical malpractice attorney who also is a physician. "This represents a change in jurors and the public's perception of hospitals and nurses."

Mother Julia Greenwell was admitted to John Muir Medical Center in Walnut Creek early Oct. 21, 1999, and developed elevated blood pressure. According to Fagel, a nurse did not call Kaplan at home and it was not until he arrived at the hospital and examined her about 6:30 a.m. that he diagnosed her with pregnancy-induced hypertension. The doctor ordered that Greenwell be given medication, but nurses testified at trial that they did not believe the mother-to-be really had hypertension, according to Fagel.

The hospital's request for a new trial is pending, said John Muir Medical Center attorney Randy Andrada. The hospital also plans to use malpractice reform legislation to petition the court to lower the verdict amount, he said.

According to Fagel, labor and delivery nurses testified during trial. One said that her orientation to that unit of the hospital was supervised, but it was unclear from medical records whether that supervising nurse was with Greenwell. The junior nurse testified that she was unable to read fetal monitor results by herself, Fagel said.

When Kaplan returned to the hospital, he delivered Caitlin, who showed severe perinatal asphyxia, said Fagel. That resulted in the cerebral palsy, although the toddler is cognitively normal.

"She's functionally trapped in a body she can't use," Fagel said.

Caitlin, almost 3, will need attendant care for the 62 more years she is expected to live. In addition to the \$49 million provided for her medical care, the jury also awarded her \$6.4 million for future loss of income she would have earned over her lifetime if able to work. Jurors

also awarded her \$100,000 for pain and suffering and \$200,000 each to her parents for emotional distress, Fagel said.

Claire Booth covers courts. Reach her at 925-228-6177 or cbooth@cctimes.com.