

THE SUN
San Bernardino County's Newspaper
May 10, 2002

[Photo not included: caption: Eric Brown Jr.]

Jury gives \$43.5M to toddler

By FELISA CARDONA
Staff Writer

A San Bernardino Superior Court jury awarded \$43.5 million Thursday to a 19-month-old boy who suffered brain damage after he was left unattended in his hospital crib.

Community Hospital of San Bernardino was sued by Eric Brown Jr. of San Bernardino through his parents, Sara and Eric Brown Sr., for the negligence the boy suffered Feb. 18, 2001.

The hospital is expected to appeal the unanimous jury decision, said Eric's attorney, Bruce G. Fagel, who is also a medical doctor.

"Community Hospital of San Bernardino would like to express its deepest sympathy regarding the injury suffered by Eric Brown Jr. and his family," hospital officials said in a prepared statement.

"We would like the community to know that every corrective action has been taken by the hospital to do everything possible to prevent a situation like this from occurring in the future," the statement continued. "Although it has always been Community Hospital of San Bernardino's desire to provide fairly for the current and future needs of Eric, at this point we are reviewing the implications of the jury's award."

Arguments over the amount of the jury's verdict are set to be heard in Judge A. Rex Victor's courtroom on May 31.

Fagel said the money awarded will be placed into a trust fund to pay for 24-hour nursing care at home plus ongoing therapy, equipment, supplies and other medical needs.

The verdict included \$5 million for pain and suffering, but under California law, that amount will be capped at \$250,000.

The hospital is entitled to pay the rest of the \$43.5 million to Eric during his lifetime. Eric's parents do not benefit financially from the verdict because state law doesn't allow parents to recover compensation.

Eric was admitted to the San Bernardino hospital on Feb. 15, 2001, when he was 4 months old, for a respiratory infection.

The day before he was to be discharged, his parents left the hospital to take a break. While they were gone, Eric was found face down and not breathing in his crib.

The monitoring devices ordered by his doctor were turned off, Fagel said.

"None of the nurses would take responsibility for what happened," he said. "Eric has severe neurological brain injuries. His brain was basically destroyed. No hope, no function, no nothing. Clearly, he will never be normal or anything close to it."

With 24-hour care, Eric is expected to live another 30 years, Fagel said.

The hospital offered to settle the case for \$2.5 million, Fagel said.

When the Browns declined the offer, the hospital stopped providing the 24-hour care they had been paying for after admitting liability, he said.

“They pulled the care during this trial and that is one of the worse things about this case,” Fagel said.

For that reason, the Browns intend to sue the hospital again for intentional infliction of emotional distress, Fagel said.

Contact writer Felisa Cardona at (909) 386-3810 or via e-mail at felisa.cardona@sbsun.com.