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Premature Baby Gets \$72.65 Million

Case type: Medical malpractice
Case: *Washington v. New York City Health and Hospitals Corp.*, 8608/89 (Sup. Ct., Bronx Co., N.Y.)
Plaintiff's attorney: Thomas A. Moore of New York's Kramer, Dillof, Tessel, Duffy & Moore
Defense attorney: Maureen C. O'Neill of New York's Bower & Gardner
Jury verdict: \$72.65 million

On April 19, 1983, 16-year-old Venice Washington came to North Central Bronx Hospital for the birth of her first child. After an initial assessment that the child was on schedule and there were no significant problems, Ms. Washington was turned over to nurses and midwives. She was hooked up to a fetal monitor, which was discontinued after 30 minutes.

The baby, Jonathan Washington, was four weeks premature, however. And, according to the monitor, the child was already in distress, says plaintiff's counsel Thomas A. Moore.

Two hours later, the monitor was hooked up again. And, he says, this probably showed further deterioration in the baby's condition. "We'll never know for sure because the tape [recording this second monitoring] was lost." By this time, he says, the baby's brain had suffered a severe loss of oxygen that was exacerbated by a traumatic delivery in which there was bleeding in part of the brain, he adds. Jonathan Washington, now 10, has cerebral palsy, his body is partially paralyzed and he has an IQ in the high 60s.

The defense denied that Jonathan's problems were caused by hospital personnel, but on Oct. 21, a jury awarded Jonathan \$6.5 million for past pain and suffering, \$8.3 million for future pain and suffering and \$57.85 million for special damages, for a total of \$72.65 million. Under New York law, this will be reduced to an estimated \$28.5 million. Post-trial motions are pending.