



## Philadelphia Lawyers Win \$16 Million Verdict in Syracuse, New York Medical Malpractice Case

On March 20, 2008, the Honorable Diane L. Fitzpatrick issued a verdict of \$16,033,811 to the family of a now 15-year old girl who suffers from cerebral palsy, mental retardation and seizures as a result of medical malpractice surrounding the management of her mother's high risk pregnancy in January, 1993. The verdict from the State of New York Court of Claims may represent the largest such verdict ever from that Court in any medical negligence case.

Mrs. DuPont was born with a congenital abnormality known as a bicornuate uterus, which made her pregnancy prone to numerous complications, including placental abruption. This condition, in which the placenta prematurely separates from the uterus, leads to massive bleeding and loss of fetal blood and oxygen. The DuPonts contended that because of the bicornuate uterus, along with additional risk factors, the attending obstetrician should have either induced labor or performed a cesarean section delivery when the pregnancy reached term, or 38 weeks' gestation. In fact, Mrs. DuPont's obstetrician, an employee of the State of New York working at SUNY Upstate Medical Center in Syracuse, had documented his plan to perform an induction when the pregnancy reached term.

For reasons still not clear to the DuPont family or their attorneys, when the pregnancy reached 38 weeks the obstetrician changed his plan, and decided not to induce labor. At 39 weeks, a catastrophic complete placental abruption occurred. An emergency cesarean was performed just in time to save the life of Kayla DuPont, but only after her brain had been starved of oxygen long enough to cause severe brain damage.

At trial the DuPont family presented expert medical testimony in support of their malpractice claim, along with extensive expert testimony describing Kayla's extraordinary medical and related care needs. The Court's verdict included more than \$10.5 million for future care needs, more than \$1.5 million for lost earnings and \$2.7 million for past and future pain and suffering.

The DuPont family was represented by attorneys Daniel S. Weinstock and Edward S. Goldis, both of the Philadelphia, Pennsylvania law firm Feldman, Shepherd, Wohlgernter, Tanner, Weinstock & Dodig, and by Edward S. Leone, of the Syracuse law firm Bottar & Leone. Although it is not yet clear whether or not the state will file an appeal, attorney Weinstock, who was lead counsel for the DuPont family, is confident that the Court's award and the thorough Opinion supporting it will withstand appellate scrutiny. Attorney Weinstock is satisfied that the amount of the verdict should be sufficient to ensure that Kayla will be able to receive the care she needs to be kept safe, to minimize her pain and suffering in the future, and to maximize her quality of life.