


MEDICAL MALPRACTICE**Childbirth - failure to diagnose preeclampsia****MIXED VERDICT:** \$35,000,000.00**CASE:** Bryant Lopez v. NYCHHC, Queens Hospital Center, Dr. Jonathan Marder, and MIC Clinic, No. 13338/91**VENUE:** Queens Supreme, NY**JUDGE:** James P. Dollard**DATE:** 05-11-2001**PLAINTIFF(S)****ATTORNEY:** Steven E. Pegalis; Pegalis & Erickson; Great Neck, NY, for Bryant Lopez

FACTS: The infant Pltf. was born on 5/11/90. Pltf. mother claimed that Defts. failed to diagnose her condition of preeclampsia, and that as a result, the infant was born with brain damage. Pltf. underwent prenatal care at Deft. MIC Clinic by Deft. Dr. Marder (defense verdict for both). Due to symptoms including elevated blood pressure and excessive weight gain, Deft. MIC twice referred Pltf. to Deft. Queens Hospital Center for evaluation and management. Each time, Pltf. was seen by a first-year resident who took her blood pressure, allegedly found that it was normal, determined that Pltf. was not ready for delivery, and discharged her without making a diagnosis of preeclampsia. The second time she was discharged, the resident told her to return in 7 days. Seven days later, Pltf. went into labor and delivered the infant vaginally. The child has brain damage.

Pltf. contended that Defts. were negligent for failing to realize that although her blood pressure might have been normal, other abnormalities were present, including excessive weight gain, severe swelling, proteinuria (protein in her urine), abnormal reflexes, and headaches, all symptoms of preeclampsia. She also contended that she should have been seen by a doctor rather than a resident. Pltf. claimed that Defts. should have formulated a plan for delivery before mother and child were compromised. She contended that Deft. should have performed a Caesarean section, especially because the infant was of greater than average size.

Defts. claimed that they found no evidence of preeclampsia upon examination of Pltf. at the hospital, and that such a diagnosis can only be made in the presence of sustained hypertension. Defts. contended that Pltf. did not have high blood pressure, and that it was appropriate to discharge her and make an appointment for her to return in a week. Defts. also contended

that the first-year resident was under supervision by an attending physician. Deft. MIC contended that it properly sent Pltf. to Queens Hospital for further evaluation, and that it was up to personnel there to admit her or not.

INJURY: Pltf., age 11 at trial, is confined to a wheelchair. He requires 24-hour care and special schooling. He lives at home.

OFFER: \$2,000,000

DEMAND: \$10,000,000 amount asked of jury:
\$5,000,000 for past pain and suffering and
\$15,000,000 for future pain and suffering.

VERDICT: \$35,000,000 v. NYCHHC and Queens Hospital Center. Breakdown: \$1,000,000 for past pain and suffering; \$14,000,000 for future pain and suffering; \$5,000,000 for impairment of earnings; \$10,000,000 for future home health care; \$5,000,000 for future medical expenses. Defense verdict for Deft. MIC Clinic and Dr. Marder. A post-trial motion is pending.