


**MEDICAL MALPRACTICE****Childbirth****VERDICT:** \$116,060,143.00**CASE:** Tina Patel, inf., by her p/n/g Navin and Sobhna Patel v. New York City Health & Hospitals Corp., No. 24176/91**VENUE:** Queens Supreme, NY**JUDGE:** Thomas V. Polizzi**DATE:** 12-07-1998**PLAINTIFF(S)****ATTORNEY:** Steven E. Pegalis; Pegalis, Wachsmann, & Erickson, P.C.; Great Neck, NY, for Tina Patel, inf., by her p/n/g Navin and Sobhna Pa  
**EXPERT:** Dr. Alan Fleischman; Neonatology; Manhattan, NY

Brian Sullivan Ph.D.; Economic Analysis; Philadelphia, PA

Dr. Harvey Bennett; Pediatric Neurology

Dr. Wayne Cohen; Obstetrics

Joseph Carfi M.D.; Physical Rehabilitation

**DEFENDANT(S)****ATTORNEY:** Bruce Gilpatrick; Heidell, Pittoni, Murphy & Bach, P.C.; New York, NY, for New York City Health & Hospitals Corp.**EXPERT:** James Howard M.D.; Obstetrics

**FACTS:** This action arose out of the delivery and birth of the infant Pltf., born on 11/4/88 at Elmhurst General Hospital. This was the second pregnancy for the mother. The Pltf. mother presented to the hospital at 7:30 AM in labor. Between that time and 10 AM, it was discovered that the baby was in breech position, and X-rays were taken to confirm the baby's position. At 10:20 AM, the mother was admitted to the labor room, with the plan to proceed with a vaginal breech delivery, which Deft. claimed, was cleared by two doctors at the hospital. Testimony indicated that there were decelerations noted on the fetal heart monitor when the mother attempted to push. She was transferred to the delivery room at 12:10 PM; 5 minutes later at 12:15 PM, while on the delivery table, which was being set up for delivery, the infant Pltf.'s body was delivered, but not her head; delivery of the baby's head was completed 10 minutes later at 12:25 PM. She weighed 6.5 lbs. and was not breathing. Her Apgar scores were 0, 1, and 3. She was intubated, and then transferred to the intensive care unit where she was placed on a respirator.

Pltf. claimed that Deft. was negligent in attempting a vaginal breech delivery, especially without the presence of a qualified attending obstetrician. Pltf. contended that in order to consider a breech delivery, the doctors must determine that the conditions are ideal for the delivery, that there is a team of qualified personnel in attendance; and that the mother has given her informed consent. Pltf. claimed that two physicians at the hospital negligently agreed that a vaginal breech delivery was acceptable under the circumstances. The attending physician, Dr. Jay Bauman, testified that the mother was in the delivery room when he arrived at the hospital, but could not specifically remember what time he arrived. Dr. Susan Arnold, a perinatologist, testified that she was at the hospital to give a lecture, and testified that when she spoke to the resident, who asked her opinion, she merely gave him a curbside opinion that it was reasonable to proceed with the vaginal delivery.

Pltfs. claimed that the infant, who is severely brain damaged, is unable to care for herself, and requires round-the-clock care. She must be fed, bathed, dressed, and assisted in all activities of daily living. She must undergo daily therapies. Her life expectancy is 70 years. Deft. did not dispute the severity of the infant Pltf.'s injuries, but argued that the estimated costs suggested by Pltf.'s experts for care of the infant Pltf. were too high. No offer; demand: \$4,000,000.

**VERDICT INFORMATION:** \$116,060,143 (6/0). Breakdown: \$1,000,000 for past pain and suffering; \$23,199 for past medical liens; \$7,000,000 for future pain and suffering; \$100,000,000 for future medical care and services; \$2,000,000 for future medical care and commodities (supplies and medications); \$3,000,000 for future lost earnings; \$3,000,000 for other items (equipment, misc.); \$36,944 for one-time costs for living area renovations. Note: The award will be reduced to a present value of approximately \$25,000,000. Jury: 1 male, 5 female.