

\$70 million judgment in botched birth

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LOS ANGELES — A Claremont girl paralyzed in a botched delivery won another legal victory following a jury's \$70 million ruling against a medical insurance company.

Ashley Hughes, now 7 and who has no mobility below the neck, will have to wait awhile longer for some of her money while the award goes through bankruptcy court.

Her attorney, Bruce Fagel, said the court views Ashley as a creditor and she will be paid along with the other creditors once bankruptcy proceedings conclude. Fagel said he could not estimate how long that will take.

A Superior Court jury on Thursday found that Southern California Physicians Insurance Exchange committed fraud and conspired to protect its own financial interests in a 1991 trial.

Dr. Neil Jouvenat, an obstetrician, was not insured at the time of Ashley's birth on March 31, 1987. The jury found that Jouvenat improperly used forceps in the delivery, causing irreparable damage to the infant's spinal cord and leaving her a quadriplegic.

The insurance company, which represented two neonatologists also involved in Ashley's delivery, offered to handle Jouvenat's defense in the 1991 negligence trial in Pomona Superior Court.

Jurors awarded \$21 million to Ashley, with \$9.8 million coming from Jouvenat. The judgment forced Jouvenat into bankruptcy.

After that trial, Ashley's attorney, Bruce Fagel, found evidence that convinced him the company had conspired with its attorneys to shape the 1991 case and make Jouvenat the scapegoat. During the trial, Jouvenat's attorney convinced him to admit his negligence in the botched delivery.

Fagel argued in the recent trial that by protecting the two neonatologists from liability, the insurance company also protected its own financial interests.

Fagel started trial eight weeks ago on the insurance company's fraud and conspiracy charges. Jurors deliberated three days before finding that the company did conspire and commit fraud, resulting in an award of \$5.7 million.

Jurors returned to deliberate punitive damages. They reached a \$65 million verdict after 2 ½ hours.

"This is unheard of," Fagel said of the jury verdict. "This is something that is unique and it should send a clear and loud message to the insurance industry that this kind of behavior by the insurance company is totally unacceptable."

Attorneys for the insurance company could not be reached late Friday.

Jouvenat, who admitted in a pretrial deposition to abusing drugs and alcohol near the time of Ashley's birth, also could not be reached for comment.

Ashley now lives with her grandparents, Gerald and Linda Hughes, in Claremont. She requires 24-hour care. Although confined to a wheelchair and on a respirator, she will return to Chaparral Elementary School next month, where she will enter the second grade.

"She is very bright, very intelligent," Fagel said. "All she's been able to do for the past seven years is exercise her brain."

Family members offered only a brief comment on the verdict.

“We’re very happy about the award. It doesn’t bother us that we have to wait awhile to see it,” Gerald Hughes said Friday. He added his granddaughter doesn’t fully understand the verdict. “She just knows that she can buy a couple of dolls with it.”