

## **KLUCKER vs. MERCADO**

James Klucker and his wife had moved to Florida after Mr. Klucker's long career of military service. Mr. Klucker landed a job with a large defense contractor, and the couple happily settled into their new lives.

Unfortunately, Mr. Klucker began to experience chest pains on Jan. 29, 1995. He was admitted to Holmes Regional Medical Center, where he showed signs of coronary artery disease. He was discharged from Holmes Regional Medical Center on Jan. 31, 1995, under the care of his general practitioner, Eddie Mercado, M.D., and scheduled for a stress test.

On Feb. 9, 1995, a cardiac stress test was positive for stress induced cardiac angina. These results were immediately transmitted to Dr. Mercado's office. However, medical records confirmed that Mr. Klucker was not seen by Dr. Mercado until Feb. 20. At that time, Dr. Mercado noted the findings and referred Mr. Klucker to a cardiologist. Mr. Klucker saw a cardiologist on Feb. 24, 1995, who immediately recognized the severity of Mr. Klucker's condition and scheduled an invasive cardiac procedure to be performed as soon as possible. Unfortunately, Mr. Klucker died of a massive heart attack shortly after leaving the cardiologist's office.

Attorney William Norton filed suit on behalf of Mr. Klucker's family and immediately set the deposition of Dr. Mercado to find out why he was so lax in his treatment of a man who clearly needed acute care. During the deposition, Mr. Norton uncovered the existence of office notes for Feb. 16, 1995, which were not reflected in the record. During that time, Mr. Klucker came into the office clearly exhibiting signs of angina for which he should have been immediately hospitalized. Instead, Dr. Mercado prescribed a medication for indigestion and sent Mr. Klucker home. Dr. Mercado was not able to give a credible explanation for the existence of the unproduced record.

Attorney William Norton filed a demand for policy limits of \$1 million which were tendered shortly thereafter. ■



## **NEWBORN BECOMES BLIND WHILE UNDER THE CARE OF PEDIATRICIANS IN TWO SEPARATE HOSPITALS**

Baby Girl was born premature on March 25, 1995, in South Georgia after 25-weeks gestation. Baby Girl was airlifted to Central Florida where she was a patient in the neonatal intensive care unit for two months. Baby Girl was then transferred back to South Georgia to a local hospital under the care and treatment of her pediatrician. While a patient in the neonatal intensive care unit in Central Florida, Baby Girl was not evaluated for retinopathy of prematurity, nor was she evaluated for that condition while a patient in the local hospital in South Georgia.

After discharge from the South Georgia hospital, Baby Girl remained under the care and treatment of her pediatrician. In November 1995, Baby Girl was diagnosed as having bilateral retinal detach-

ments due to retinopathy of prematurity. Retinopathy of prematurity is a disease that occurs in premature infants and affects the blood vessels of the developing retina.

Premature infants such as Baby Girl, need to be evaluated at 6-weeks of age and then re-evaluated. Treatment for retinopathy of prematurity includes cryotherapy (ice treatments) and laser treatment. If the retinopathy is not treated, the blood vessels develop in such a way as to detach the retinas causing blindness.

Baby Girl was diagnosed as being blind in both eyes in November 1995, and no remedial treatment was available to her.

During the pendency of this case, a pediatric ophthalmologist and pediatrician were prepared to testify that both the local pediatrician and the physicians at the Central Florida hospital were negligent in not evaluating Baby Girl for retinopathy of prematurity. A nationally recognized neuropsychiatrist in North Carolina was employed to orchestrate a multi-disciplinary evaluation consisting of a pediatric psychologist, pediatrician experienced in the needs of blind children, language therapist, physical therapist, and occupational therapist. The neuropsychiatrist prepared a life plan which detailed Baby Girl's future needs in terms of educational requirements, therapeutic needs on a social and emotional basis, as well as the impact of blindness on her future employability.

Attorneys Chris Searcy and David White were prepared to try this case in South Georgia. However, after mediation, the case was settled. Baby Girl will be financially secure for the rest of her life, although, she will remain blind with no hope of visual improvement. In addition to settling with the treating pediatrician in South Georgia, a settlement was also reached with the Central Florida hospital. ■