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candidate for The Florida Bar
President-Elect**
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Birth injury results in \$9.3 million settlement just prior to trial

Excessive medication used to stimulate contractions in labor, and failure to monitor patient, resulted in permanent brain damage for infant.

SDSBS attorneys **Chris Searcy** and **Greg Barnhart** recently completed representation on behalf of the Smith family – parents Jane and John, and their son, Jake (not their real names). Their legal action involved medical malpractice which occurred when Jake suffered severe brain damage during his birthing process several years ago.

After a healthy and uneventful pregnancy, Jane was admitted to the labor/delivery suite at a major hospital in north Florida for the highly anticipated birth of her first child. Her husband John, her mother, mother-in-law, and sister were present for the happy occasion. Jane's labor progressed slowly, with minimal contractions. Jane's obstetrician was not in the hospital with Jane as she faced her labor (not uncommon, considering such physicians respond to multiple patients each day). He had provided written orders for nurses to administer certain medications, in specific order, as labor progressed.

The most critical medication included in the obstetrician's order was Pitocin, commonly known as Oxytocin. The Federal Drug Administration (FDA) requires pharmaceutical companies to place a "Black Box Warning" on such medications defining potential side effects including injury or death. These notices, included on Pitocin, are FDA's most stringent warnings for providers and patients. Pitocin acts as a stimulant for a pregnant woman's uterus, encouraging contractions that move labor to completion. The danger, however, is that prolonged and/or severe contractions may interrupt the baby's blood supply. If that interruption is long or significant, it may cause damage to the baby's organs (including the brain), and even lead to fetal death. Because patients respond to Pitocin in a variety of ways, patients must be monitored carefully and physicians promptly notified of any adverse effects that appear.

The written order from Jane's obstetrician gave the nurse discretion to administer Pitocin in increments up to a specified



**Chris
Searcy**



**Greg
Barnhart**



limit. The obstetrician testified that he expected to be notified of any adverse changes in the mother's condition or the baby's heart rate. Instead, the nurse in charge continued to increase the levels of Pitocin up to the limits on the order and then continued to increase the dosages beyond that limit. The nurse stated that she did not think anything was wrong and that she saw no adverse changes in the fetal heart monitoring strip. The obstetrician testified that he should have been notified that the closes of Pitocin had reached the stated limit. With the increase of Pitocin, the number and intensity of Jane's contractions increased during the last 45 minutes of labor. The baby's heart rate also increased dramatically. The variability of the baby's heart rate decreased as well, an ominous sign.

When the obstetrician was finally notified of the baby's condition, he came to the hospital. However, he also took too much time to recognize the danger. The obstetrician performed an emergency caesarean section to deliver the baby. Unfortunately, the baby was not breathing. He was resuscitated and transported to another hospital with a neonatal intensive care unit. Today, several years after his birth, Jake remains severely brain damaged and requires around-the-clock care by his parents.

Jake's parents managed to endure the shock of the abrupt crisis they experienced at the birth of their son. They brought him home, loved and cared for him, and attempted to provide all the mental and physical support that could sustain him. Jane and John reached out to Searcy Denney and asked for their help in finding accountability for the injuries their son had suffered at birth. Years after filing legal actions for medical malpractice and reaching a trial date, the parties settled the case for just under \$9.3 million, an amount that will help the Smiths and their son to continue growing as a loving, supportive family. ♦