

MEMORANDUM

July 10, 2007

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: TODD THEODORA, ESQ.
Theodora, Oringer, Miller & Richman PC

NARBEH BAGDASARIAN
Deputy County Counsel
Health Services Division

RE: **Brandon Woo, et al. v. County of Los Angeles**
Los Angeles Superior Court Case No. BC332518

DATE OF
INCIDENT: July 8, 2004

AUTHORITY
REQUESTED: \$385,000.00

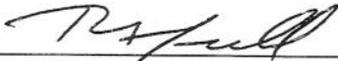
COUNTY
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

CLAIMS BOARD ACTION:

Approve

Disapprove

Recommend to Board of
Supervisors for Approval



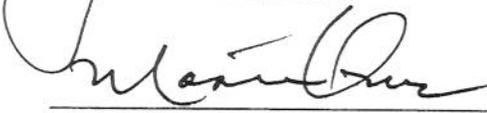
, Chief Executive Office

ROCKY ARMFIELD



, County Counsel

JOHN F. KRATTLI



, Auditor-Controller

MARIA M. OMS

on July 16, 2007

SUMMARY

This is a recommendation to settle for \$385,000.00 the medical negligence lawsuit brought by Brandon Woo, for the injuries he sustained while hospitalized at LAC+USC Medical Center ("LAC+USC") and also by Wilson Woo and Thuy-Ying Woo, the parents of Brandon Woo, for the emotional injury that they suffered as a result of closely observing the physical injuries of their son, Brandon Woo.

LEGAL PRINCIPLES

The County may be liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

SUMMARY OF FACTS

Brandon Woo was born on July 7, 2004 at LAC+USC. After birth, Brandon exhibited signs and symptoms of respiratory distress. The medical staff successfully intubated Brandon (a procedure whereby a plastic tube is inserted into the patient's airways to assist him with breathing). Brandon was then transferred to Neonatal Intensive Care Unit at LAC+USC.

Brandon remained intubated until about 7:10 a.m. on July 8, 2004, at which time he was extubated and the medical personnel placed a nasal cannula on his face. For the purpose of this procedure, a plastic tube is placed across the upper lip of the patient and is fixed to the patient's skin. This plastic tube has two small extensions that enter the patient's nostrils and provide the patient with a flow of oxygen.

While the nasal cannula was in place on Brandon's face, the LAC+USC staff regularly observed and examined the patient. This was in full compliance with the facility's nursing policy and procedures which required an examination every 30 minutes. At about 2:00 p.m. on July 9, 2004, the staff noticed redness and skin irritation on Brandon's upper lip and the corners of his mouth. The nasal cannula was therefore removed, and the patient was placed under an oxygen hood.

Plastic surgery consultation was obtained, and Brandon's skin condition was treated. Brandon has now a potentially permanent scar across his upper lip which has caused deformity in his lip. Experts believe that Brandon will require to undergo several plastic surgery procedures in the next few years. Some experts also believe that the scarring of Brandon's upper lip may cause some problems with his speech and as such, he may need speech therapy in the future.

Wilson Woo and Thuy-Ying Woo, Brandon's parents, have testified that they closely observed the skin irritation on their son's face and repeatedly brought the issue to the attention of the staff at LAC+USC, by complaining about Brandon's condition and the placement of the nasal cannula tube. Brandon's parents claim that by observing the skin irritation on their newborn son's face, they suffered severe emotional distress.

Medical experts agree that the mechanism behind Brandon's injuries was pressure necrosis. This is a condition whereby physical pressure injures tissues causing cellular death. Experts further agree that the nasal cannula placed on Brandon's lip caused the pressure necrosis.

DAMAGES

If this matter proceeds to trial, the claimant will likely seek the following:

Pain and Suffering (for all plaintiffs)	\$ 500,000.00
Past Medical Expenses	\$ 45,172.36
Future Medical Expenses	\$ 365,320.00
Lost Earnings (past and future), estimate	\$ <u>259,753.92</u>
 TOTAL	 \$1,170,246.28

The proposed settlement includes:

Total Recovery for all plaintiffs	\$ 280,000.00
Attorney's Fees (MICRA Estimate)	\$ 71,250.00
Costs of Litigation	\$ <u>33,750.00</u>
 TOTAL	 \$ 385,000.00

STATUS OF CASE

Plaintiffs brought this medical malpractice lawsuit against the County of Los Angeles. Brandon Woo asserted a cause of action for medical malpractice for the injuries he suffered while hospitalized at LAC+USC. Wilson Woo and Thuy-Ying Woo, the parents of Brandon Woo, brought an action for negligent infliction of emotional distress, for the emotional injuries that they suffered as a result of observing Brandon's physical condition. The current trial date has been vacated pending approval of this settlement.

This matter involved complex medical questions and issues surrounding the care and treatment rendered to Brandon Woo at LAC+USC and the nature of his injuries. In addition to the normal discovery in such matters, it was necessary to retain several medical experts to review the care rendered by the County's personnel and the extent and cause of the plaintiff's injuries.

Expenses incurred by the County of Los Angeles in the defense of this case through July 5, 2007, are attorney's fees of \$46,160.79 and \$31,002.72 in costs.

The total cost to the County of Los Angeles as a result of this settlement is as follows:

Indemnity (Settlement Amount)	\$385,000.00
County Attorney's Fees and Costs	\$ <u>77,163.51</u>
TOTAL	\$462,163.51

EVALUATION

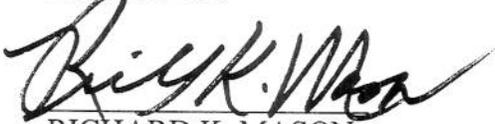
Medical experts agree that in this case, the placement of the nasal tube caused the pressure necrosis, and that the injury to Brandon's lip, to a reasonable degree of medical probability, occurred during the time the nasal cannula was in place on the patient. The plaintiffs contend that the nasal cannula was placed too tightly, and was not monitored sufficiently. The plaintiffs' main approach to this case will be based on the doctrine of Res Ipsa Loquitur; the plaintiffs will argue that the injuries to Brandon Woo's face were such that would not ordinarily occur without negligence. Although our analysis indicates that there was no breach or departure of the standard of care in this case, settlement is recommended because medical experts will be unable to offer a non-negligent explanation for the injury to Brandon's upper lip. Although there is some dispute as to the facts, the inability of the County to provide an alternate explanation for Brandon Woo's injuries will subject the County to liability in this matter.

The emotionally charged circumstances of this case and the fact that the plaintiffs are extremely sympathetic make this a dangerous case to present to a jury.

We join with our private counsel, Todd Theodora, Esq., and our claims administrator, Sedgwick Caronia, in recommending settlement in the amount of \$385,000.00.

The Department of Health Services concurs in this settlement.

APPROVED:



RICHARD K. MASON
Assistant County Counsel
Health Services Division

RKM:NB:bdv