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## ■ Jury awards \$7 million for Erb's Palsy case

On May 18, 1994, Brittany Ricks was born with lacerations on her scalp and no movement in her left arm. The injuries were not documented in the labor and delivery notes. Instead, they were first recorded eight hours after delivery by a pediatrician, who diagnosed Erb's Palsy, a condition caused by the tearing of nerves leading from the cervical spine.

The defendant obstetrician, Dr. Mobley, wrote a labor and delivery note claiming that the delivery was spontaneous and uneventful. The plaintiff's experts testified that the defendant had negligently used a vacuum extractor at a time when the baby was too high in the birth canal. This caused laceration and tearing of the baby's scalp and likely contributed to a condition known as shoulder dystocia, where the head is successfully delivered but the shoulder becomes trapped behind the mother's pelvic bone preventing delivery of the body. The record was silent as to the existence of shoulder dystocia.

The plaintiff's experts testified that the natural expulsive forces of labor caused the child's injuries, in utero, before delivery of the head.

Following birth, the baby underwent two surgeries to treat her injuries. The first took 15 hours and required the surgeon to harvest nerves from the calves and graft them to her brachial plexus. The second surgery took eight hours and required four incisions to the back shoulder and forearm in an attempt to stabilize the scapula.

The jury deliberated two hours before returning their verdict.

**Type of Action** — Medical malpractice

**Type of Injuries** — Permanent Erb's Palsy

**Name of Case** — Ricks v. Mobley and Elizabeth River OBGYN, P.C.

**Court / Case No.** — City of Portsmouth Circuit Court / L00-1272

**Awarded / Settled** — Awarded

**Amount** — \$7.2 million (\$4 million principal verdict plus \$3.2 million of pre-judgment interest from May 18, 1994.

**Plaintiff's Attorneys** — William E. Artz, Arlington

[03-T-190]