

APNewsBreak: \$58M malpractice award in baby case

JOHN CHRISTOFFERSEN, Associated Press

Updated 05:45 p.m., Wednesday, May 25, 2011

Albany Times Union

NEW HAVEN, Conn. (AP) — A jury awarded a Connecticut couple \$58 million Wednesday after their baby was born with severe injuries in what the couple's attorneys called the largest medical malpractice verdict in state history.

The jury in Waterbury Superior Court reached the verdict in favor of Dominic and [Cathy D'Attilo](#) of Norwalk against Dr. [Richard Viscarello and Maternal-Fetal Care](#), attorneys for sides said.

The boy's parents said they were grateful for the verdict and said it would provide for their son Daniel's care.

"This is for our little boy," said [Dominic D'Attilo](#), a mason contractor. "Now we can move forward and worry about taking care of him like we always have."

Cathy D'Attilo described her son's birth as bittersweet.

"I had this beautiful baby boy, but it soon came crashing down that something terrible had happened," she said.

The boy's mother said her son has taught her patience.

"I thought I was going to teach him," she said. "It turns out he's teaching me. He's an angel. He's my bright light."

The family claimed the doctor delayed performing a cesarean section. Their lawsuit said the brain-damaged baby, now 8, has cerebral palsy and can't talk or walk.

James Horwitz and Kathleen Natri, lawyers with Koskoff, Koskoff & Bieder who represented the couple, say it is the largest medical malpractice judgment in state history. They said there was a similar case involving a \$38 million award a few years ago.

"It's an overwhelming victory for the parents," Natri said. "He is profoundly, profoundly disabled and the parents have gone through hell."

The doctor should have performed the C-section when the woman came in for a visit and her amniotic fluid had dropped by half, but instead she was sent home, according to Natri and Horwitz. They also said the doctor made incisions in the wrong place when the woman gave birth two days later.

When the baby was born, he was not breathing or moving, had no color and barely had a heartbeat, attorneys said.

James Rosenblum, attorney for the doctor, vowed to appeal the verdict.

Rosenblum said the verdict was driven by sympathy for the parents but was contrary to the evidence. He said the doctor followed proper procedures and attributed the baby's troubles to a rare inflammatory complication that could not be detected before birth.

"It was a total miscarriage of justice by the jury," Rosenblum said. "His treatment was impeccable. It's a shocking verdict. There was overwhelming evidence supporting the doctor. There was no credible evidence supporting the plaintiff."

The verdict came on the second trial. An earlier trial resulted in a hung jury.

Jury awards \$58M malpractice suit against doctor

Rob Varnon, Staff Writer

Updated 11:38 p.m., Internet: Wednesday, May 25, 2011

News-Times (Danbury); The Advocate (Stamford); Connecticut Post (Bridgeport)

A Waterbury jury has awarded a Norwalk child and his parents \$58 million in a malpractice suit against a Stamford surgeon and his practice.

The case, filed in January of 2005, is the biggest single malpractice judgment in state history, according to Koskoff, Koskoff and Bieder, the Bridgeport legal firm representing [Daniel Jacob D'Attilo](#) and his parents, Cathy and [Dominic D'Attilo](#).

The parents, whose child was born with severe injuries, said it was a day of relief for them on what has been a "rough, rough road."

A jury of six men returned the verdict against Dr. [Richard Viscarello](#) and Stamford-based [Maternal-Fetal Care P.C.](#) A call to MFC was not returned Wednesday, but [the Associated Press](#) reported that the doctor's attorney, [James Rosenblum](#), called the verdict a miscarriage of justice that runs contrary to the evidence in the case.

Stamford Hospital, originally named in the suit, was later dropped.

Attorney [Kathleen Nastri](#) said she expects the decision to be upheld by the appellate court, but she could not say how long it would be until the D'Attilos see any of the money.

"That's my angel," [Cathy D'Attilo](#) told reporters as they looked at a photo of the 8-year-old. Dominic D'Attilo looked heavenward as his lawyers described what happened to their son, who has cerebral palsy.

The lawsuit was filed in 2005 after Daniel Jacob D'Attilo's birth on Feb. 2, 2003.

Dominic and Cathy D'Attilo had gone through difficulties to become pregnant and were under the care of Stamford-based MFC. On Jan. 31, 2003, Cathy's amniotic fluid dropped by half, but a cesarean section procedure was not conducted until Feb. 2, according to her attorneys.

Attorney [James D. Horwitz](#), also a Koskoff lawyer, said the surgeon made abnormal decisions and ultimately the series of decisions deprived the baby of oxygen and caused cerebral palsy.

The result has left Daniel wracked with seizures, unable to speak, unable to crawl, unable to sit up, stand or reach the typical milestones parents and children often get to enjoy.

Cathy and Dominic say they've learned a lot from their son.

"We love him so much," said Dominic D'Attilo, describing how his son is smart and tries hard at everything, though right now his body is like a prison to him.

The parents plan to use the money for Daniel's ongoing need for physical and communications therapy and for wheelchairs. They will also use it to pay the more than \$500,000 in medical expenses they've incurred since his birth and to possibly keep their home in Norwalk.

While they've been fighting the legal battle, the family also fell on hard times. Dominic is a mason and contractor whose business has suffered in the downturn. In 2009, Wells Fargo Bank filed a foreclosure action against the family.

"It will help us not go into the street," he said of the judgment.

Ultimately, the couple, who met 14 years ago in [Bobby Valentine's](#) former bar in Norwalk, say they remain dedicated to each other and to their son, and that they will fight for him "until death do us part."

In Medical Malpractice Case, Jury Awards Record \$58.6 Million

Panel Agrees Obstetrician Responsible For Boy's Brain Damage

May 25, 2011

By MATTHEW STURDEVANT

The Hartford Courant

A Norwalk couple was awarded \$58.6 million Wednesday, a record for a single incident of medical malpractice in Connecticut, in a case involving an obstetrician accused of waiting too long to perform a cesarean section and a boy who was permanently brain-damaged.

The jury at Superior Court in Waterbury sided with Domenic and Cathy D'Attilo, whose son Daniel, now 8, has had severe cerebral palsy since he was born on Feb. 2, 2003. He is fed through a tube, uses a wheelchair, is unable to eat, talk or walk and is incontinent.

"When my son was born, he was born not breathing, blue, limp," said Cathy D'Attilo, the mother who sued her obstetrician, Dr. Richard Viscarello, and his practice, Stamford-based Maternal-Fetal Care PC. "He had seizures; he was on a ventilator. So, we knew something terrible had happened to Daniel."

D'Attilo, her husband and son said in their lawsuit that Viscarello did not perform timely incisions to relieve the upper uterine area, delayed the cesarean section, didn't create space for an atraumatic delivery and caused a delay in the delivery that led to permanent brain damage.

"It was discovered that he had lost oxygen to his brain, and suffered a brain injury," D'Attilo said.

The defendant's attorney, James Rosenblum of Rosenblum Newfield LLC in Stamford, said he will appeal if Judge Kevin Dubay allows the jury's decision to stand.

"He followed the rules, and the jury ignored that," Rosenblum said of the doctor.

The jury awarded the D'Attilos \$8.6 million in economic damages for past and future care of their son, which is the amount their attorneys requested and demonstrated in court. The jury also awarded \$50 million in non-economic damages, which was at the jury's discretion. Additionally, there's a possibility of interest, which attorneys familiar with insurance law said adds up to millions more.

Daniel is Cathy D'Attilo's only child. Her husband, Domenic, has a daughter from a previous marriage. The couple had tried for six years to have a baby before resorting to in-vitro fertilization.

"It was a long road just to get pregnant," Cathy D'Attilo said.

Daniel is now a full-time job for his mother.

"Pretty much everything is dedicated and surrounded around Danny and his needs, and we do them with pleasure because he's our son. We love him," she said.

The now second-highest single-incident medical malpractice award in Connecticut also involved an obstetrician delivering a baby in 2003 at Stamford Hospital.

In 2008, a Stamford jury awarded \$38.5 million in a lawsuit that found obstetrician Corinne de Cholnoky liable for waiting too long before she performed a cesarean section to deliver the second child in a pair of twins for Elizabeth Oram, according to the Connecticut Law Tribune. The first child, Emma, was fine, but the second child, Spencer, had severe brain damage from the delivery, according to the Law Tribune.

In that case, the doctor named Stamford Hospital as an apportionment defendant. She alleged that the anesthesiologist and operating-room nurses slowed the cesarean delivery, according to the Law Tribune. That case is under appeal, said Rosenblum, who represents that defendant, too.

Daniel D'Attilo was delivered on Feb. 2, 2003, and Oram's child, Spencer, was delivered two months later on April 4, 2003.

Updated: 5:42 p.m. Wednesday, May 25, 2011 | Posted: 2:48 p.m. Wednesday, May 25, 2011

APNewsBreak: \$58M malpractice award in baby case

By JOHN CHRISTOFFERSEN

The Associated Press

NEW HAVEN, Conn. — A jury awarded a Connecticut couple \$58 million Wednesday after their baby was born with severe injuries in what the couple's attorneys called the largest medical malpractice verdict in state history.

The jury in Waterbury Superior Court reached the verdict in favor of Dominic and Cathy D'Attilo of Norwalk against Dr. Richard Viscarello and Maternal-Fetal Care, attorneys for sides said.

The boy's parents said they were grateful for the verdict and said it would provide for their son Daniel's care.

"This is for our little boy," said Dominic D'Attilo, a mason contractor. "Now we can move forward and worry about taking care of him like we always have."

Cathy D'Attilo described her son's birth as bittersweet.

"I had this beautiful baby boy, but it soon came crashing down that something terrible had happened," she said.

The boy's mother said her son has taught her patience.

"I thought I was going to teach him," she said. "It turns out he's teaching me. He's an angel. He's my bright light."

The family claimed the doctor delayed performing a cesarean section. Their lawsuit said the brain-damaged baby, now 8, has cerebral palsy and can't talk or walk.

James Horwitz and Kathleen Natri, lawyers with Koskoff, Koskoff & Bieder who represented the couple, say it is the largest medical malpractice judgment in state history. They said there was a similar case involving a \$38 million award a few years ago.

"It's an overwhelming victory for the parents," Natri said. "He is profoundly, profoundly disabled and the parents have gone through hell."

The doctor should have performed the C-section when the woman came in for a visit and her amniotic fluid had dropped by half, but instead she was sent home, according to Natri and Horwitz. They also said the doctor made incisions in the wrong place when the woman gave birth two days later.

When the baby was born, he was not breathing or moving, had no color and barely had a heartbeat, attorneys said.

James Rosenblum, attorney for the doctor, vowed to appeal the verdict.

Rosenblum said the verdict was driven by sympathy for the parents but was contrary to the evidence. He said the doctor followed proper procedures and attributed the baby's troubles to a rare inflammatory complication that could not be detected before birth.

"It was a total miscarriage of justice by the jury," Rosenblum said. "His treatment was impeccable. It's a shocking verdict. There was overwhelming evidence supporting the doctor. There was no credible evidence supporting the plaintiff."

The verdict came on the second trial. An earlier trial resulted in a hung jury.

Norwalk Family Awarded \$58 Million in Malpractice Suit Against Stamford Doctor

The case is the largest single malpractice judgment in state history, according to the legal firm representing the family.

By [Chandra Johnson Greene](#) | 11:59am

A Norwalk child and his parents were awarded \$58 million by a Waterbury jury on Wednesday in a malpractice suit against a Stamford surgeon and his practice, according to the [Connecticut Post](#).

The case is the largest single malpractice judgment in state history, according to Koskoff, Koskoff and Bieder, the Bridgeport legal firm representing the family.

The lawsuit was filed in 2005 after Daniel Jacob D'Attilo was born on Feb. 2, 2003 with severe injuries. At the time, Daniel's parents Dominic and Cathy D'Attilo were under the care of Dr. Richard Viscarello and Stamford-based Maternal-Fetal Care P.C.

According to the family's attorneys, on Jan. 31, 2003, Cathy's amniotic fluid dropped by half, but a cesarean section procedure was not conducted until two days later, thus, depriving the baby of oxygen and causing cerebral palsy. Daniel, who is now eight, suffers from seizures and is unable to sit up, crawl or stand.

Daniel's parents told reporters that they plan to use the money to fund their son's medical expenses and ongoing needs for therapy and wheelchairs, as well as to keep their home in Norwalk.

[Stamford Hospital](#) was originally named in the lawsuit, but was later dropped

Family Awarded \$58 Million In Record-Breaking Pregnancy Malpractice Suit

AOL – HUFFINGTON POST

First Posted: 05/26/11 11:07 AM ET Updated: 05/26/11 02:35 PM ET

In what is being called the largest medical malpractice verdict in state history, two Connecticut parents have been awarded \$58 million on behalf of their eight-year-old son, [reports ABC 7's Eyewitness News](#).

Attorneys for the family say that Daniel D'Attilo now has cerebral palsy because of brain damage resulting from a delayed delivery by their obstetrician. "It's an overwhelming victory for the parents," one of the family's lawyers, Kathleen Nastri, [told the Associated Press](#). "He is profoundly, profoundly disabled and the parents have gone through hell."

The case was filed in 2005, after Daniel's birth on February 2, 2003, [reports the Connecticut Post](#). According to attorneys, Cathy D'Attilo's amniotic fluid dropped by half on January 31, but her physician waited days to perform a Caesarian section -- they also say that even once the surgery did happen, it was done improperly.

According to [the NIH](#), "Cerebral palsy is caused by injuries or abnormalities of the brain" that typically occur in the womb. While symptoms can range from mild to very severe, in Daniel's case he is unable to speak, eat or walk, and suffers from seizures.

Of the record dollar amount granted by the jury, \$8 million is expected to cover medical expenses, while the remainder was designated for pain and suffering.

"The dollar amount means he will be taken care of, that's what this means to us," Daniel's mother Cathy [told the Eyewitness team](#), who also reports that her son will need full-time care.

But the doctor's attorney, James Rosenblum [said to the Associated Press](#) that the jury's decision was made more out of sympathy than hard evidence -- he promised that his client would appeal the case. "His treatment was impeccable. It's a shocking verdict," he said.

Other physicians worry the jury's decision could keep doctors from taking on high-risk cases like this one in the future -- check out that perspective and the family's story in the ABC 7 Eyewitness report.

Connecticut Law Tribune

Wednesday, May 25, 2011

Medical Malpractice Case Nets \$58 Million Verdict

Delayed delivery left child with severe cerebral palsy

By THOMAS B. SCHEFFEY

Three years after the same case resulted in a hung jury, a second Waterbury jury returned a \$58 million verdict against a local gynecologist, Richard Viscarello, of Maternal-Fetal Care, P.C.

Trial lawyers Kathleen Natri and James Horowitz, of Bridgeport's Koskoff, Koskoff & Bieder, argued the case on behalf of Norwalk resident Daniel D'Attilo and his parents. They convinced the jury that the doctor had breached the standard of care by not starting a caesarian section delivery in time.

Viscarello began treating Cathy D'Attilo in July 2002, according to the complaint. By Jan. 31, 2003, the mother was in her 39th week of pregnancy. According to the defense, the standard of care was to not deliver a baby before 40 weeks of gestation, said Natri. The case was defended by James Rosenblum, of Stamford's Rosenblum Newfield.

Natri's firm said the case was the highest medical malpractice verdict in Connecticut history.

Rosenblum said his post-verdict motions will include one to set aside the verdict or, alternatively, to reduce the verdict as excessive and driven by emotion. "It was a complete runaway verdict, unsupported by the evidence. It's not only uncollectable; it's unsupportable."

The four-week trial unfolded before Judge Kevin Dubay. Three years earlier, Waterbury Superior Court Judge Jane Scholl presided over the first trial, which ended in a 5-1 deadlocked mistrial. The jury heard closing arguments on May 20, and deliberated for two and a half days before delivering a midday verdict today.

The couple used in vitro fertilization to have their first and only child, said Natri. When the mother visited the doctor for her checkup Jan. 31, her level of amniotic fluid was at half the normal level. "Our expert said that is an indication there is something wrong with the baby, and it has to be delivered that day, by caesarian section," Natri said. Delivery, however, was delayed.

It was not clear whether the mother was leaking fluid, or not producing enough. "Amniotic fluid is basically the baby's urine, and for some reason he wasn't producing enough urine. The fluid supports the baby's well-being by keeping the baby cushioned, by keeping the umbilical cord

from being compressed, and keeps the baby safe from trauma in utero,” said Nastri. “Our expert said that with that kind of drop in the fluid, you have to deliver this baby.”

Two days later the mother went into labor. By the time they got her down to the operating room, the baby appeared to be stuck in breach birth. The father filmed a video of the delivery, and at one point on the soundtrack, said Nastri, “the doctor says „Holy shit!’ And the Mom says, `Holy shit? That can’t be good.”

For the next three or four minutes, they struggled to get the baby out. When he was born, his only sign of life was a heartbeat. “He wasn’t breathing; he wasn’t moving; he was pale and was essentially lifeless. They resuscitated him, but he developed cerebral palsy,” Nastri said.

The child needs extensive home care, according to Nastri. “They take great care of him, but they need a lot of help. The father came to America from Italy with his family as a child, and works as a mason contractor. Mom stays home and takes care of Danny.”

It would be unusual for a doctor to have insurance covering a verdict of this size. Nastri said she does not anticipate the entire verdict will be collectable . Nastri made a \$4 million judgment offer in 2005, so interest on that will probably add about \$30 million to the total verdict, she said.