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Law Reporter

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BALANCING THE SCALES
OF JUSTICE

~ ENDOWED BY SIDNEY GILREATH ~

NEGLIGENCE

hospital, alleging it had failed to timely admit their mother when she came to the facility several days before the delivery. *Russell Gregory and *Jesse Reiter, both of Bloomfield Hills, Mich., represented plaintiffs.

Doe Twins v. Roe Hosp., Mich., confidential court and docket no., July 24, 2003.

Failure to offer revaccination to splenectomy patient

Structured settlement for a man who, after undergoing a splenectomy as an adolescent, required amputation of all his limbs after he developed overwhelming sepsis about 20 years later. He sued an HMO, alleging failure to recommend revaccination every five years with the 23-valent pneumococcal vaccine and warn of the potential risks for post-splenectomy sepsis. *Jeffrey A. Milman, Newport Beach, Cal., represented plaintiff.

Doe v. Roe HMO, Cal., Orange County Super. Ct., confidential docket no., May 20, 2003.

Improper handling of newborn positive for *E. coli*

Settlement for a teenager who developed meningitis that led to mental retardation and other problems when she was a child. Her parents, individually and on her behalf, sued a pediatrician and others, alleging failure to recognize and treat signs of newborn infection by, among other things, administering antibiotics after a positive *E. coli* culture and ordering a spinal tap. *Jacquelyn C. Gregan and *L. Todd Kelly, both of Houston, Tex.; and Michelle Huff, Evening Shade, Ark., represented plaintiffs.

Stewart v. Lucas, Ark., Sharp County Cir. Ct., No. CIV 94-67, Oct. 22, 2003.

Failure to timely diagnose lung cancer

Verdict for a woman who suffers from metastatic cancer and has no chance of survival. She and her husband sued an internist and his practice, alleging he had failed to timely diagnose lung cancer. Plaintiffs claimed that the physician had (1) misread the annual X-rays, (2) misinterpreted a density as stable, and (3) failed to recommend a timely CT-scan. *Paul LaClair, New York, N.Y., represented plaintiffs.

Davis v. Cohen, N.Y., Queens County Sup. Ct., No. 545/00, Sept. 17, 2003.

Negligent circumcision

Structured settlement for a child whose penis was partially amputated during a circumcision performed by a pediatrician. Suit against the physician alleged negligent circumcision and failure to request surgical repair by a pediatric surgeon. *Eric J. Parker and *Susan M. Bourque, both of Boston, Mass., represented plaintiff.

Doe v. Roe Pediatrician, U.S. Dist. Ct., D. Mass., confidential docket no. and date.

Man struck by forklift: Failure to inspect and repair forklift: Crushed leg: Settlement.

Easterday v. Leeward Auto Recycling, Inc., Haw., 1st Cir. Ct., No. 02-1-000614, May 6, 2003.

Easterday, 37, had an agreement with an automobile salvage yard allowing him to use the premises to restore cars, with a portion of his profits given to the shop. Easterday got off a forklift he was operating to help a shop employee. The forklift reversed into Easterday, crushing his leg. He sustained a near-amputation crush injury to his left calf, which required several surgeries.

Easterday was a chief warrant officer in the U.S. Navy who earned \$36,000 annually. He had recently notified the Navy of his intent to retire. His lifetime earnings loss, past and future, was estimated to be between \$1.2 million and \$1.9 million. His past medical expenses totaled about \$112,000, and his future medical expenses were estimated at \$50,000.

Easterday sued the owner of the premises, alleging failure to inspect, maintain, and repair the forklift in a reasonably safe condition. He contended that the handbrake on the forklift was defective and could be overridden if the forklift was in gear.

Defendant argued that plaintiff was comparatively negligent because he failed to shut off the forklift, secure the handbrake, or ensure that the forklift was not in gear before disembarking.

The parties settled for \$1 million.

Plaintiff's experts were Walter Chun, work site safety, Honolulu, Haw.; Richard Gill, human factors, risk management, Moscow, Idaho; Clyde Calhoun, forklift maintenance and operation, Waianae, Haw.; Thomas Loudat, economics, Honolulu, Haw.; and John Endicott, occupational medicine, Kailua, Haw.

Defendant's experts were Gregg Perkin, engineering, Honolulu, Haw.; and Clifford Maeda, work site safety, Honolulu, Haw.

Plaintiff's Counsel

*Jan M. Weinberg, Honolulu, Haw.

Woman attacked by dogs: Strict liability: Severe lacerations, puncture wounds: Settlement.

Kemp v. Pesola, Cal., Ventura County Super. Ct., No. CV 211224, Apr. 21, 2003.

Kemp, 43, was jogging in her neighborhood. Two Great Danes attacked her. Kemp sustained lacerations to her right