

**THE RECORDER**  
 LAW BUSINESS TECHNOLOGY

January 26, 2015

# CALIFORNIA'S MILLION DOLLAR VERDICTS

MEDICAL MALPRACTICE	AWARD	COURT	VENUE	CASE NAME	ATTORNEYS
1	\$12,100,000.00	Superior Court of Contra Costa County, Contra Costa	Contra Costa County	Cuevas v. Contra Costa County Health Services	<b>Eustace de Saint Phalle, The Veen Firm, PC, (currently at Rains Lucia Stern, PC)</b> <b>Michael E. Gatto, The Veen Firm, PC, (currently at Rains Lucia Stern, PC)</b> <b>Alison M. Karp, The Veen Firm, PC, (currently at Rains Lucia Stern, PC)</b>

# MEDICAL MALPRACTICE - Delayed Diagnosis – Medical Malpractice – Delayed Treatment

## Brian C. v. Contra Costa Health Services

**Amount:** \$12,132,780.82

**Type:** Verdict

**Venue:** Contra Costa County

**Court:** Superior Court of Contra Costa County, Contra Costa

**Case Name:** Brian C. v. Contra Costa Health Services

**Date:** September 18, 2014

### Parties:

**Plaintiff:** Brian C. (a minor)

**Plaintiff Attorney(s):** Eustace de Saint Phalle,  
The Veen Firm, PC, (currently at Rains Lucia Stern, PC)  
Michael E. Gatto, The Veen Firm, PC, (currently at  
Rains Lucia Stern, PC)

Alison M. Karp, The Veen Firm, PC, (currently at  
Rains Lucia Stern, PC)

**Defendants:** Contra Costa Health Services

**Defense Attorney(s):** W. David Walker, Craddick, Candland &  
Conti, Danville, CA

**Facts:** On June 27, 2008, plaintiff Brian C.'s mother, presented for a routine pre-natal exam with family practitioner Teresa Madrigal, M.D. at the Pittsburg Health Center. The pregnancy was a high-risk monochorionic-diamniotic twin pregnancy. While performing a Non-Stress Test before the mother's appointment with Dr. Madrigal, a nurse was unable to find the heartbeat of one twin, and the other twin's reading was non-reactive. The nurse called Dr. Madrigal, who attended to the patient. Brian's mother was eventually taken to the hospital where an emergency C-section was performed. Brian's twin died. Brian was born suffering from perinatal depression and suffered a hypoxic brain injury. Brian sued Contra Costa Health Services, Teresa Madrigal, M.D., Huy Dao, M.D., Scott Loeliger, M.D. (employees of Contra Costa Health Services, operated by Contra Costa county), for medical malpractice.

Plaintiff contended Dr. Madrigal, as a family practitioner, was unqualified to handle high risk twin pregnancies, such as Brian's. Dr. Madrigal admitted in deposition that she did not understand many of the risk factors of this pregnancy, including twin to twin transfusion, artery to artery anastomosis, and marginal cord insertion, among others. Plaintiff contended the family practitioner allowed the pregnancy to continue for too long, and that in a pregnancy with these risk factors, delivery should have occurred by 37 weeks. Plaintiff also contended that Dr. Madrigal and Dr. Loeliger failed to respond appropriately during the emergency on the morning of June 27, 2008, delaying transporting Brian's mother to the hospital for an emergency C-section. Plaintiff contended that Contra Costa Health Services should have had better oversight and protocols to prevent family practitioners from managing high risk pregnancies.

Plaintiff introduced evidence that Dr. Madrigal altered the medical records after she learned of the death of one of the twins

and gave false deposition testimony in an attempt to blame the mother for the tragedy. Dr. Madrigal made entries in the mother's chart for visits weeks earlier purporting that she had discussed the delivery date with a doctor and with the mother. Dr. Madrigal denied she had altered the chart.

### Defense Contentions:

Defendants contended that this pregnancy could be delivered up to 38 weeks, that Dr. Madrigal was qualified to manage the pregnancy and expected the perinatologist providing ultrasounds to notify her if she should deliver earlier, that the mother should have gone to the hospital earlier herself, and that doctors must not rush in an emergency situation even if the patient may be injured. Defendants argued that Brian's life would be reduced by 20 years.

### Injuries/Damages:

Brain damage causing mild intellectual disability, speech/language disorders, impairment of fine motor skills, and impaired coordination. Brian was born with brain damage resulting from a hypoxic injury. He will never be able to live independently or be employed. Plaintiff provided evidence that despite his deficiencies and vulnerability, his life expectancy is not diminished.

Brian's family had been unable to obtain proper care, and were limited to that provided through the county and the school system. Brian is now 6 years-old and is left with speech problems, coordination issues, and problems with his motor skills. With the award, Brian will be able to obtain intensive and extensive speech and language therapy, assistive augmentative communication devices, and occupational and physical therapy. In addition, he will be able to go to a specialized school for the brain injured with his motor and speech and language issues, and eventually live in a home with others with his specific injuries and with 24-hour medical and attendant care.

### Results:

**Past Medical:** \$55,780.82

**Future Medical:**

**Future Value:** \$100,000,000

**Present Value:** \$9,577,000

**Lost Earnings:**

**Future Value:** \$11,700,000

**Present Value:** \$2,000,000

**Past and Future Pain and Suffering:** \$500,000

**Trial Information:**

**Judge:** Steven K. Austin