

THE NEWS & OBSERVER

# Triangle

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## Raleigh lawyer wins \$19 million for kin

### *Medical malpractice suit settled in Chicago*

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**RALEIGH** - Raleigh lawyer Charles T. Francis thought he might have a big case four years ago when he got a call from his wife's aunt, Patricia Townsend, who suspected her 15-year-old son Damen's cerebral palsy and severe brain damage were caused by medical malpractice.

Last week, Francis found out how right he was: He won a \$19 million settlement, one of the largest of its kind ever won by a North Carolina lawyer.

It "will provide for all of Damen's needs for what we hope will be a very long life," said Francis.

The settlement, which came during jury deliberations, turned out to be a wise move for the Chicago hospital that was the lawsuit's target; the jury eventually re-

turned a \$20.25 million verdict.

That verdict, had it gone through, would have been the second-largest award won by a North Carolina lawyer in a birth injury case, lawyers involved with the case believe. In September 1997, now-U.S. Sen. John Edwards won a \$23 million verdict from a Mecklenburg County jury for the parents of a baby born severely brain damaged.

In both cases, the baby's brain was deprived of oxygen during labor.

Townsend, now living in Huntsville, Ala., filed the lawsuit in Cook County (Ill.) Circuit Court against the Little Company of Mary Hospital, where her son Damen, now 19, was born on July 20, 1983. She had not realized that her son's injuries may have been caused by problems not detected by doctors and nurses at birth until a family friend raised the possibility.

According to trial testimony, a nurse at the hospital attached a fetal heart monitor to Townsend's abdomen. But the nurse failed to notice when the fetus' heart re-

acted late to Townsend's contractions — a sign that the fetus is not getting enough oxygen.

Records from the fetal heart monitor show the baby was deprived of oxygen for at least five hours. Shortly after checking the fetus the next morning, doctors performed an emergency Caesarean section.

Reached at her Huntsville home this week, Townsend, 42, said she plans to use the money, which will be held in trust for her son's expenses, to hire someone to help provide him with round-the-clock care and to build a more handicap-accessible house. Every day, she has to bathe, dress and feed her 53-pound son, who also cannot talk.

Francis' co-counsel, Kevin Burke of Chicago, credited Francis for the victory during the monthlong trial. Francis, a 39-year-old former Raleigh city councilman, was able to connect with the jury while questioning Patricia Townsend, Burke said.

"His pace and rhythm of his speech allowed Pat to relax and enter into a friendly conversation that the jury was simply overhearing," he said. "Charles is an excellent lawyer, who had instant identification with the jury. He had a passion for the case as well as for the rights of Damen Townsend. I think everyone could feel that in the courtroom."

A hospital spokeswoman did not return a message left Wednesday. However, the private nonprofit hospital issued a statement last week: "We are pleased that the trial has concluded. The Sisters of the Little Company of Mary and the hospital administration and board will keep the young man and his mother in their daily prayers."

*The Chicago Tribune contributed to this report.*

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