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\$3.7 Million Awarded in Arbitration for Mother's Death

Celia Ampel, Daily Business Review

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Bonnie Navin, right, and Kimberly Wald, left, attorneys with Kelley Uustal in Fort Lauderdale. *Photo: Melanie Bell*

As a newborn, Abigail Belzi only got to spend a few moments with her mother —when Plantation General Hospital staff laid her on the unconscious 24-year-old's chest.

Abigail was born via emergency C-section in 2014 after her mother, Patricia Belzi, lost so much oxygen to her brain in the hospital that she slipped into a vegetative state. Belzi died three months later.

The baby's birthday, Aug. 8, is also "a constant reminder of a loss," said Fort Lauderdale attorney Bonnie Navin of Kelley/Uustal.

This year, the day came just after Navin and her colleagues won Abigail and her father a \$3.73 million arbitration award on medical malpractice claims against the hospital. The arbitration panel also ordered the hospital to pay about \$560,000 in legal fees and costs.

Plantation General Hospital admitted Patricia Belzi after she arrived at the emergency room with shortness of breath. Emergency medical technicians placed the 33-weeks-pregnant woman on oxygen, but hospital staff removed it, Navin said.

As eight hours went by, Belzi had more and more trouble breathing, until she started spitting up blood. An anesthesiologist wasn't available, but an emergency room doctor decided it was time to intubate Belzi.

"Within minutes, she goes into respiratory arrest," Navin said. "They realize that they're losing her, and that there's no way to keep her alive at this point."

The doctors performed an emergency C-section to save Abigail, who was sent to the neonatal intensive care unit and is healthy today. They tried to revive Belzi, but she remained in a vegetative state until she died of a heart attack on Nov. 18, 2014.

Because Florida tort law limits recovery for noneconomic damages to \$250,000 per claimant, Navin knew her team would have to make a strong case that Abigail and Bernard Belzi, Patricia Belzi's husband of one year, had suffered immense economic damages.

At arbitration, Navin and her colleagues Robert Kelley and Kimberly Wald argued that a mother's job is many jobs rolled into one: a tutor, a nurse, a nanny. To replace the services Patricia Belzi would have provided, her husband would have to hire several workers, not just one, they argued.

"In the world the defendants live in, they want to believe you can hire someone to do all these things for one small price of \$10 an hour, or whatever it may be," Navin said.

An attorney for the hospital, John Mauro of Billing, Cochran, Lyles, Mauro & Ramsey in Fort Lauderdale, did not respond to a request for comment by deadline.

Patricia Belzi also would have been a breadwinner for the family after she finished school, the plaintiffs argued. The Haitian-American was earning her associate's degree in radiologic technology at Keiser University and planned to become a registered nurse.

"She wanted to go back into the Haitian community and help women and children as a nurse practitioner," Navin said.

Lawyers for the hospital argued testimony from friends and family about Belzi's plans was hearsay. They asked the court to award damages based only on what the young woman had accomplished, not what she might accomplish had she lived.

The arbitration panel declined to accept the theory, finding that Belzi's ambitions mattered in the calculation of damages.

After three days of arbitration, the panel awarded approximately \$1.4 million for loss of support, \$1.81 million for loss of household services and \$23,000 in funeral expenses. It also awarded the statutory maximum, \$250,000 each for Abigail and Bernard Belzi, for emotional damages.

Navin said it was rare for a Florida medical malpractice case to make it to arbitration. The cases usually settle because the law requires the defendant to pay for arbitrators' time and the facility.

But in this case, the two parties' valuation of the damages varied too much, she said.

Navin said she believed a jury would likely award a "sympathetic and wonderful family" like the Belzis \$5 million to \$10 million, but the noneconomic damages cap kept the award below that range.

"This statute on the caps hasn't changed since 1988," she said. "So \$250,000 in 1988 might have seemed like a lot of money to compensate someone who's lost a loved one, but not in today's society."

The arbitration panel comprised Administrative Law Judge June McKinney, Israel Reyes of the Reyes Law Firm in Coral Gables and David Prather of Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin in West Palm Beach.

Case: Bernard Belzi v. Plantation General Hospital

Case no.: 15-3711MA

Description: Medical malpractice

Filing date: Dec. 15, 2014

Arbitration award date: Aug. 2, 2016

Arbitration panel: Administrative Law Judge June McKinney, Tallahassee; Israel Reyes, The Reyes Law Firm, Coral Gables; David Prather, Clark, Fountain, LaVista, Prather, Keen & Littky-Rubin, West Palm Beach

Plaintiffs attorneys: Bonnie Navin, Robert Kelley and Kimberly Wald, Kelley/Uustal, Fort Lauderdale

Defense attorneys: John Mauro and Carol Glasgow, Billing, Cochran, Lyles, Mauro & Ramsey, Fort Lauderdale; Mark Hicks and Mary Gniadek, Hicks, Porter, Ebenfeld & Stein, Miami

Award amount: \$3,730,976.28

