

Insurance: Nurse's Own Policy Will Pay First \$100,000, Court Says.

The parents filed a lawsuit against the hospital where their baby was born with cerebral palsy allegedly caused by the negligence of the physician and two labor and delivery nurses who were present for the mother's labor.

One of the two nurses relieved the other at 3:00 p.m. at the end of her shift. The evidence the jury would have heard, if the case had gone to trial, was that significant abnormalities were there to be seen on the fetal monitor read-outs at 2:50 p.m. and again at 5:56 p.m. That is, it appeared each nurse was separately exposed to liability in the parents' lawsuit.

The nurse was covered by the hospital's liability insurance which had a \$100,000 self-insured retention.

The nurse's own errors and omissions policy is required to cover her for the first \$100,000 of the \$900,000 settlement.

UNITED STATES DISTRICT COURT
NEW JERSEY
September 24, 2007

The insurance companies for the hospital and for one of the nurses agreed to pay the parents a settlement of \$900,000, then went back to court to argue how exactly that sum would be paid out.

The US District Court for the District of New Jersey ruled the hospital's insurance had a valid \$100,000 self-insured retention, and the nurse's own insurance policy was intended to pay and would contribute that amount on her behalf. **General Hosp. of Passaic v. American Casualty Company, 2007 WL 2814655 (D.N.J., September 24, 2007).**