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## How a C-Section 'Scheduling Error' Led to a \$17M Settlement

"I was steadfast in my argument that, as complex as the medicine surrounding placenta accreta spectrum may be, this case really boiled down to a scheduling error," Daryl L. Zaslow of Eichen Crutchlow Zaslow said.

A \$17 million settlement has been reached for a girl injured at birth when she was deprived of oxygen.

The case, *Doucette v. Al-Khan, M.D.*, was filed in Ocean County Superior Court in October 2021. Daryl L. Zaslow of Eichen Crutchlow Zaslow obtained the award on behalf of Shea Doucette, now 4 years old, who suffers hypoxic ischemic encephalopathy and cerebral palsy allegedly as a result of a birth injury. Zaslow told the Law Journal that a portion of the settlement will be used to purchase annuities, which guarantee payments of more than \$18 million but are anticipated to pay over \$28 million. The total settlement will ultimately be worth between \$26.9 to \$37.1 million, Zaslow said.

"Although this case was vociferously disputed on the issue of liability, everyone involved was acutely aware of the devastating damages sustained by Shea, her parents, and to Shea's entire family," Zaslow said.

Shea's mother Jenna Doucette was 32 years old when she became pregnant in 2019. During her prenatal care, she was diagnosed with placenta percreta, a form of placenta accreta spectrum where the placenta grows too deeply into the uterine wall making it difficult to separate at birth, according to Zaslow. She sought treatment from Dr. Abdulla Al-Khan, at The Center for Abnormal Placentation at Hackensack University Medical Center, according to the complaint.

The complaint said that on March 8, 2020, Doucette suffered a massive uterine rupture and placenta abruption and then underwent an



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emergency cesarean section. According to the complaint, as a result, Doucette's daughter was deprived of oxygen at birth, suffered hypoxic ischemic encephalopathy and was diagnosed with cerebral palsy. Jenna also required multiple blood transfusions and was admitted to the intensive care unit for placental abruption and massive abdominal bleeding, the complaint said.

Jenna was scheduled for a cesarean section on March 11, when she would have been 37 weeks pregnant, but Zaslow said the high-risk condition his client suffered from indicates that she should have had a cesarean section between 34 and 36 weeks of gestation.

Zaslow said the defense argued that a stable patient with this condition without placenta previa could be delivered at 37 weeks. According to court documents, the defense also argued that Doucette's right to recovery was barred by the doctrine of assumption of the risk and that the defendants' treatment was

within the accepted standards of care.

Zaslow said he consulted 22 experts in the case and served 15 expert reports.

"Although the numerous experts were necessary, throughout the litigation, I argued that this case was unlike most traditional birth injury cases that involve extraordinarily complex medical issues, including the interpretation of fetal heart rate tracings, infection, neuroradiology and genetics," Zaslow said. "I was steadfast in my argument that, as complex as the medicine surrounding placenta accreta spectrum may be, this case really boiled down to a scheduling error."

The settlement was reached following three days of mediation over five months before retired Superior Court Judge Joseph P. Quinn. Superior Court Judge James Den Uyl presided over the case and approved the \$17 million settlement on Jan. 3. Zaslow said the settlement is being paid entirely on behalf of Al-Khan.

Zaslow was assisted in the litigation by his partner, Frances Wang Deveney.

William J. Buckley of Schenck Price Smith & King represented Al-Khan, The Center for Abnormal Placentation at Hackensack University Medical Center, and Hackensack Meridian Health. He did not immediately respond to a request for comment.

A second doctor named in the complaint, Dr. Jesus Rafael Alvarez-Perez, was represented by Robert T. Evers of Marshall Dennehey Warner Coleman & Goggin. Evers did not immediately respond to a request for comment.

—Colleen Murphy