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## 'Top Doc' hit with \$2M verdict

By Peter Geier

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**A** Towson obstetrician, who made Baltimore Magazine's "Rising Star's" list of top doctors, was hit with a \$2 million medical malpractice verdict in Baltimore County Circuit Court yesterday.

The jury determined that Monica A. Buescher's decision not to perform a Cesarean section caused the baby, Frank Sterner, to suffer fetal and respiratory distress and pneumothorax, resulting in mental retardation.

"During the seven-day trial the jury was presented with complex medical facts and issues," said Christian A. Lodowski, the lead attorney for the Sterner family. "The jury's verdict clearly indicates they digested and comprehended the evidence presented to them.

"The family feels vindicated

and applauds the jury's verdict," Lodowski said. "Res ipse loquitur — the verdict speaks for itself."

However, Buescher's lawyer, E. Dale Adkins III, tells a very different story.

"The jury was presented with testimony that was wildly outside the bounds of medical science," Adkins said, "and while I believe in the jury system and believe it generally works, in this case it didn't."

The \$2 million award against Buescher and her professional association included \$1.5 million for the boy's future medical costs, \$43,750 for his past medical expenses, \$450,000 for his future loss of earnings and \$6,250 in non-economic damages, Lodowski said.

But Adkins noted the amount the jury awarded was considerably less than what the plaintiffs had sought — \$5 million to \$6 million.

"The jury was asked for far

more money than they awarded," Adkins said. "The fact that they were out for two days and two hours suggests to me that it was a compromise verdict."

Adkins challenged the jury's finding that Buescher did not treat Sterner and his mother according to the applicable standards of care. Instead of a Cesarean, Buescher waited to induce labor.

"I've got a remarkably capable and competent group of doctors who are scrupulous about the practices and follow every rule in the book. And it's disappointing to have a jury determine otherwise," said Adkins, adding they are former medical faculty members.

Buescher was named one of 13 "Rising Stars under 40" on Baltimore Magazine's 1997 Top Doctors list, two years after she delivered the Sterner baby. Another member of her

Sterner family's lawyer.

"The child's seen 10 doctors in the first five years of his life and not a single doctor that has ever laid hands on or treated this child has said that his condition has anything to do with what happened to his mother when she was in labor," Adkins noted.

"I am convinced that the jury was improperly instructed," Adkins said. "I told the judge I'm going to tell that to the Court of Special Appeals."

Lodowski said Frank Sterner suffered respiratory distress and decreased oxygen saturation levels because he was delivered by induced labor rather than Cesarean section and that though a nurse resuscitated the newborn, Buescher should have had an attending neonatologist.

After respiratory distress and color change, the baby was transferred to the neona-



Christian A. Lodowski, flanked by partners Kenneth Vogelstein, left, and Michael B. Snyder of Snyder Weiner Weltchek Jacobs Slutkin & Lodowski, won a \$2 million malpractice award for their young client.

professional association was one of three general obstetrician/gynecologists to make the same list.

"This is absolutely one of the top groups of doctors in the city in the area of obstetrics and gynecology," Adkins said.

Buescher's lawyer said the first doctor to link the youngster's "mild mental retardation" with the neonatal treatment he received was the examining doctor of the

tal intensive care unit, where he was hospitalized 11 days at St. Joseph Medical Center, his lawyer said. The newborn was then transferred to the University of Maryland hospital where a sleep study revealed that he was continuing to desaturate and was ultimately diagnosed with respiratory distress and pneumothorax, Lodowski said.

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