

Birth of a tragedy

What will happen to Tommy?

By Jeanne Whitaker
staff writer

EARLY ON a summer morning of 1980 Tommy Alan Smith was delivered into this world at an Oakland County hospital. He was not breathing, had no reflexes or muscle tone, and was totally blue in color. He also had a skull fracture and hemorrhages under one or more bones of his skull as well as bruises on his cheeks and about the eyes.

"Now 3, Tommy (not his real name) is severely mentally and physically handicapped. He can only babble a few words, is not toilet trained, and is unable to feed himself. When he attempts to walk he literally walks on the inside of his ankles, the result of the cerebral palsy.

"It doesn't take more than a few moments with Tommy to recognize that he will never be like most children his age. And unlike most of his peers,

Tommy has already made his first appearance in court. His family and their attorney, Stanley Schwartz, are seeking compensation in excess of \$28 million from the hospital, Mrs. Smith's obstetrician and staff who attended Tommy and his mother at the delivery.

In their suit the Smiths contend that Tommy was a healthy, normal baby until the doctor and attending resident applied forceps to the fetus with such force that they cracked his skull and cut off needed oxygen from his brain.

"His skull and brain were quite literally crushed during the last hour prior to his delivery," said Schwartz, a Bloomfield Hills resident whose Southfield firm specializes in birth trauma cases.

TOMMY IS ONE of an estimated 2.6 million babies born in 1980. Of them, 240,000, including Tommy, were born with some sort of brain damage. Tommy's injuries are traceable to a birth trauma resulting delivery, according to

Schwartz, who said improved technology is making it possible to pinpoint the moment when injuries take place.

Schwartz contends compensatory awards totaling millions of dollars are not unreasonable when the extent of the child's injuries, how they occurred, the number of years he can be expected to live, and the extent of the care he will need are considered.

Although Schwartz said that no two cases are alike, in each case the jury is asked to decide if the injuries to this child resulted from negligence or malpractice on the part of the attending physician and/or hospital personnel or were they the result of some other trauma-producing happening during the final weeks or hours of the mother's pregnancy?

Said Schwartz, "We have to show not only where the doctor went wrong, but eliminate all the other possible causes. It's not an easy task."

Currently, there is an added sense of urgency attached to the disposal of cas-

es such as Smith vs. the hospital, attending physician and staff. In May Senate Bill No. 224 was introduced in Lansing requesting that a limitation of compensation be placed on what plaintiffs may seek to recover for the expense of medical care, rehabilitation services, loss of earnings, or other economic loss. Though his specialty is not mentioned by name, Schwartz feels that what he is able to recover for his clients will be severely restricted should the bill become law.

THE BILL is pitting two of the state's most powerful professional groups, the lawyers and doctors, against one another with each side prepared to spend millions to ensure an outcome in their favor.

Bill No. 224 is in committee, with hearings still being scheduled, but already contested is Sec. 2911D, which would limit the total amount recoverable by plaintiffs for noneconomic losses to no more than \$500,000.

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Tommy Alan Smith

Date of birth: July 10, 1980
Present Life Expectancy: 70 years
Worklife Expectancy: 47 years

INTANGIBLE DAMAGES

Physical pain and suffering	
\$500 per week x 70 years	\$1,820,000
Mental anguish	
0 to 5 years x \$2,500 per year	\$12,500
5 to 10 years x \$500 per week	\$130,000
10 to 15 years x \$1,000 per week	\$468,000
15 to life expectancy x \$1,500 per week	\$3,999,840
Denial of social pleasures	
0 to 5 years x \$2,500 per year	\$12,500
5 to 10 years x \$500 per week	\$130,000
10 to 15 years x \$1,000 per week	\$468,000
15 to life expectancy x \$1,500 per week	\$3,999,840
Embarrassment, humiliation and mortification	
0 to 5 years x \$2,500 per year	\$12,500
5 to 10 years x \$500 per week	\$130,000
10 to 15 years x \$1,000 per week	\$468,000
15 to life expectancy x \$1,500 per week	\$3,999,840
Disability and disfigurement	
0 to 5 years x \$2,500 per year	\$12,500
5 to 10 years x \$500 per week	\$130,000
10 to 15 years x \$1,000 per week	\$468,000
15 to life expectancy x \$1,500 per week	\$3,999,840
Diminution of earning capacity	\$705,000
24-hour occupational practical nurse	\$6,869,836
Occupational therapy	
\$10/hour x 5 hour/week x 70 years	\$196,000
Speech therapy	
\$10/hour x 5 hour/week x 70 years	\$196,000
Physical therapy	
\$10/hour x 5 hour/week x 70 years	\$196,000
Total	\$28,336,796

Holiday designs shown

The United Methodist Women of Orchard United Methodist Church, 39450 Farmington Road is sponsoring a demonstration called "Holiday Designs in The Warmth of Williamsburg," led by Nancy Passfield at 1 p.m. Tuesday, Nov. 8, in fellowship hall.

Passfield, a resident of Farmington Hills, is District I Director of Federated Garden Clubs of Michigan, a flower

show judge, and member of Hill and Dale Garden Club, Orchard Church and its Altar Guild. She has lectured and taught throughout the state for approximately 10 years.

Williamsburg style apple cone forms will be for sale plus some of the designs. For tickets at \$2 each call Doris Hird, 851-7356, or the church office, 628-3620.



BACK BY
POPULAR DEMAND



**SERGIO
TACCHINI**

Monday-Saturday 9:30-6:00

Tennis time

S.E. Corner Maple & Lohr
Birmingham, MI 35245

Each year, 2.6 million babies are born. Of them, 240,000 will have some form of brain damage. New technology is helping discover which ones could have been born normal, healthy children.



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See the classic rainwear and accessories when shown by Ed de Costa and Jim Beardsley. Choose from our own selection of current-season coats, rainhats, umbrellas, wallets, handbags, scarves and mufflers. At this time, as well, you may order Burberry fall/winter or new spring coat...and any of the accessories, from luggage to sport gear, in the internationally famous Burberry plaid.

In our Women's Department from 10 a.m. to 3 p.m.
and in our Men's Shop from 4 to 7 p.m.
on Friday, October 28

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