

# Cultural Daily

Independent Voices, New Perspectives

## Medical Negligence in Birth Injury Cases: What Are Your Options?

Our Friends · Tuesday, October 29th, 2024

The last thing you want as a parent is to realize that your child suffered a injury during the birthing process. Birth injuries can have seriously devastating consequences for families, both physically and emotionally, that can leave lasting scars. Understanding your legal rights and options is crucial if you suspect that medical negligence was to blame for the birth injury that your child suffered. Learn everything you need to know in order to determine whether pursuing a medical negligence case is right for you.

### Understanding Medical Negligence in a Birth Injury Case

For those unfamiliar with the term, medical negligence, sometimes better known as medical malpractice, is when a healthcare provider fails to provide the standard of care they had a duty to perform. Generally, this needs to be care which another reasonable and prudent professional would not have provided under similar circumstances for it to qualify as medical negligence. In regards to birth injuries, medical negligence can arise from a variety of situations including:

- **Failure to diagnose or treat prenatal conditions:** This could include conditions such as gestational diabetes, preeclampsia, or fetal distress
- **Improper use of medical instruments:** Errors in the use of forceps, vacuum extractors, or other medical devices used during the birthing process can lead to birth injuries
- **Errors during labor and delivery:** Mistakes during labor and delivery, such as improper positioning of the mother or failure to respond to fetal distress, can also contribute to birth injuries

Unfortunately, **determining negligence in a birth injury** case can be quite the challenge, especially if you missed the signs that it was occurring during the birthing process. In court, expert medical testimony will almost certainly be required so that a reasonable standard of care can be established to show how your healthcare provider breached that standard.

### Your Legal Rights and Options in a Birth Injury Case

In the event you feel certain that the injury your child suffered while being birthed was due to negligence on behalf of your healthcare provider, there's a chance you have legal rights to seek compensation. Consult with an attorney as soon as possible as you may live in a state which has a short statute of limitations to file a lawsuit. Examples of **compensation you may be able to**

**receive**, though, include:

- **Medical expenses:** This includes past and future medical treatment, rehabilitation, and assistive devices your child may need due to their injury
- **Lost wages:** If the child is unable to work due to the birth injury, lost wages may be recoverable
- **Pain and suffering:** Compensation for the physical and emotional pain, as well as suffering, experienced by the child and your family, could be justifiable
- **Future care costs:** This includes projected expenses for long-term care and support services if the injury impacts your child's ability to live a normal life

To have the best chance at recouping some compensation in a birth injury case, it's best to hire a lawyer who specializes in birth injury cases. These types of attorneys have both the experience and expertise to help guide you through the complex medical evidence, the negotiation process with insurance, and simply advocate for your rights.

## The Legal Process: What to Expect

Should you go down the path of pursuing a medical malpractice lawsuit, the below steps are what you can expect from the legal process:

1. **Filing a complaint:** The lawsuit is initiated by filing a complaint with the court against your healthcare provider
2. **Discovery:** During the discovery phase, **both sides gather information and evidence** that may include depositions, interrogatories, and requests for documents
3. **Trial:** If the case cannot be settled out of court through arbitration or mediation, it will proceed to trial where a jury or judge will determine whether the healthcare provider was negligent
4. **Appeal:** If either party is dissatisfied with the trial court's decision, they may file an appeal after a period of time

## The Role of Insurance Companies in Birth Injury Claims

You may potentially be considering relying on insurance to seek reparations if your child suffered a birth injury rather than pursuing legal options. While you can certainly lean on insurance, it's important to note that they likely will not cover any expenses in the future related to that injury, rather only expenses incurred during the birthing process itself. They may also handle birth injury claims differently than the legal system and utilize tactics to minimize payouts. These tactics can include:

- **Denying liability:** Insurance companies may argue that the healthcare provider was not negligent or that the injury was not caused by their actions to avoid paying as much
- **Disputing the extent of damages:** Insurance companies may attempt to minimize the amount of compensation by disputing the severity of the injury or the future costs associated with it
- **Delaying claims:** Insurance companies may delay processing claims or make it difficult for claimants to obtain information or documentation

Naturally, given this, it is crucial to have your own legal representation to protect you and your child's interests so that you receive fair compensation. A skilled birth injury attorney can help you navigate these complex legal and insurance processes. If you don't have counsel though, here are some quick tips you can use to deal with insurance adjusters:

- *Avoid making statements that appear to admit any type of fault on your behalf that may have led to the birth injury*
- *Document anything and everything during the birth process so that you can reference it if need be or if a birth injury occurs*
- *Contact an attorney who can help you understand your rights and navigate the insurance process*

Beyond the legal aspects of your potential birth injury case, don't forget to acknowledge the broader impact that this may have on your family. These types of cases can have a profound emotional and financial toll on you or caregivers of your children. Ensure you have a support system in place to help you navigate the difficult times following a birth injury.

### **Lean on birth injury support and resources if you've been affected**

The emotional impact of a birth injury on families is no small one, but support groups and counseling can provide much-needed support and resources. There may also be organizations in your area that offer financial assistance to families affected by birth injuries. If you suspect that medical malpractice had something to do with your child's birth injury, don't hesitate to seek out legal advice and support from an accredited lawyer. This will help you to put your child's best interest first and to seek justice for what happened to them.

---

**[CLICK HERE TO DONATE IN SUPPORT OF CULTURAL DAILY'S NONPROFIT MISSION](#)**

This entry was posted on Tuesday, October 29th, 2024 at 9:38 am and is filed under [Check This Out](#). You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can leave a response, or [trackback](#) from your own site.