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Elk Grove woman wins \$7.6M in UC Davis malpractice suit

Sacramento Business Journal by Kathy Robertson, Senior Staff Writer

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A young Elk Grove woman won a \$7.6 million from the UC Regents in a jury verdict Friday after a UC Davis radiologist missed an abnormality on her spine that later grew and caused her to become paralyzed from the waist down.

The verdict, won by Sacramento attorneys **Brooks Cutter** and **Eric Ratinoff**, is believed to be one of the largest medical malpractice judgments in Sacramento County history.

The plaintiff was awarded \$6.4 million to compensate for lost wages and costs associated with the medical and attendant care she will need the rest of her life. The jury awarded \$1.2 million in pain and suffering, but California's medical malpractice law caps these damages at \$250,000, so she'll collect \$6.67 million if the verdict stands.

It was unclear Monday afternoon whether the university would appeal.

"The jury did a thorough, careful review of the evidence and came up with an award that will enable this young woman to move forward with her life independently with the resources she needs," Cutter said. "She'll be in a wheelchair the rest of her life."

D'Kawn Hairston was 13 and experiencing back pain and loss of sensation in her lower extremities when she was hospitalized at the **UC Davis Medical Center** in December 2003, court documents show. She had an MRI of her spine, but the pediatric radiologist and radiology resident who viewed the images stated the spine was normal and unremarkable. In fact, the images show an abnormal mass on the spine, according to court documents.

UC Davis doctors concluded Hairston was suffering from Guillain-Barre Syndrome and treated her for that condition. She continued to have lingering weakness in her lower extremities.

On February 1, 2008, Hairston awoke unable to move her legs, with pain in her lower back. She was hospitalized and an MRI showed a large, bleeding growth on her spine at the same place where the abnormality was detected on the images taken in 2003. It was removed, but Hairston had permanent injury to her spinal cord, rendering her paraplegic, with no sensation or muscle control from her mid-torso downward.

An expert testified on behalf of Hairston that the abnormality along her spine should have been detected and removed in 2003. An expert called by the medical center countered that the mass was "subtle" and it was within standards of care to miss it.

The jury found Hairston's injuries were caused by medical negligence.

A spokeswoman said the university and the **UC Davis Health System** empathize with Hairston and her family, but they could not discuss the details of the case. However, Leslie Sepuka of the president's office said that an investigation was done into the patient's care, and that it was "appropriate."

"This is a regrettable and unfortunate case for everyone involved," Sepuka said. "As always, the UC Davis Health System is committed to providing high quality patient care and safety."

Kathy Robertson covers health care, labor/workplace issues, law, immigration, medical technology and biotechnology for the Sacramento Business Journal.