



PROPER PLANNING MAY CREATE PEACE OF MIND



MAY 2007

THE AHLBORN FORMULA IS SUCCESSFULLY APPLIED

It is the one year anniversary of the United States Supreme Court's decision in Ahlborn. The first reported decision applying the Ahlborn ruling was issued on April 13, 2007 in the matter of Chambers v. Jain, 1240/03, NY Slip Opinion 50776(U) by the Supreme Court of the State of New York. *This is an unpublished case.*

Facts: Nicholas Chambers was born on June 29, 1995. The defendants were negligent during the labor and delivery process as well as during his neonatal care which resulted in severe and permanent injuries. The child's mother filed a medical malpractice action in January, 2003. The child and the mother relocated to Florida.

Procedural History: On October 31, 2006, the trial court signed what is called an *Infant's Compromise Order* (Order) which settled the case for the sum of \$1,700,000.00.

The Department of Social Services (DSS) which administers the Medicaid program in the State of New York claimed a lien of \$141,638.00 against the settlement proceeds. Medicaid provided services from June 29, 19955

through May 6, 1996. The Order provided that the sum of \$141,638.00 would be placed in an escrow account pending final determination of the correct amount of the lien.

DSS filed a motion to vacate the Order. The Court enjoined the defendants from making any payments. The injunction was vacated by order dated February 2, 2007.

The Ruling: New York law previously treated the entire amount of a settlement as available to satisfy a Medicaid lien. As a result of Ahlborn, the trial court in Chambers held a hearing and allowed the parties the opportunity to submit evidence as to the value of the case. The medical evidence supported the Plaintiff's position that Nicholas required extensive medical care for the rest of his life.

"Ahlborn must be read to limit the DSS recoupment to the amount of the settlement proceeds allocated to past medical expenses."

J. Schlesinger in Lugo v. Beth Israel Med. Ctr.

Based upon the evidence presented, the Court decided that the full value of the child's case was 6,000,000.00. The Court determined the ratio between the settlement amount and the actual value of the case (28.3%) and applied it to the claim for medical expenses thereby reducing the claim to \$40,083.55. The Order was

amended to incorporate this determination.

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