



# Cuevas v. Contra Costa County, 11 Cal. App. 5<sup>th</sup> 163 (Cal.App. 2017)

Topics Covered: Professional Liability, Tort Reform

## **Outcome: Very Favorable**

### **Issue**

The issue in this appeal was whether the trial court improperly excluded the defendant's proffered evidence of the plaintiff's anticipated expenses for future medical treatment. The court's ruling could undercut protections allowed in medical negligence cases under MICRA (the Medical Injury Compensation Reform Act).

### **AMA Interest**

Tort reform is the AMA's highest legislative priority and this case, if affirmed, might erode that reform.

### **Case Summary**

The plaintiff (Brian Cuevas), a minor, is the surviving twin of a monochorionic-diamniotic pregnancy – a condition whereby identical twins share a placenta but have separate amniotic sacs. During her pregnancy, a physician employed by Contra Costa County (the County), cared for the plaintiff's mother. Following an emergency caesarian section delivery, it was found that the plaintiff's twin had died and the plaintiff had suffered a hypoxic brain injury, which led to cerebral palsy.

The plaintiff, by his mother, sued the County for medical negligence, alleging the physician had breached the standard of care and her breaches led to the plaintiff's permanent brain damage. On the issue of damages for the plaintiff's future care, the court disallowed the County's proffered evidence of in-network insurance rates. It also prohibited evidence of the free services available to plaintiff and evidence of Medicaid discounts.

The County appealed the exclusion of its evidence on damages.

On April 27, 2017, the California Court of Appeal reversed. It held that California Civil Code section 3333.1, the MICRA provision that permits introduction of evidence of certain collateral source benefits available to plaintiffs, applies to future benefits as well as past benefits. The Court reasoned that although the statute's language was ambiguous, the legislative intent was to reduce damages in medical liability suits. The Court's interpretation of legislative intent was informed by the legislative purpose of reducing malpractice insurance rates, judicial decisions directing that MICRA should be interpreted liberally to accomplish that purpose, and by MICRA's legislative history.

### **Litigation Center Involvement**

The California Medical Association, along with other California-based health care organizations, submitted an amicus brief, which argued that the plaintiff's measure of future damages was unrealistic and the County's proffered evidence should have been allowed. The Litigation Center helped to defray the expenses associated with the brief, although the Litigation Center did not join in the brief.