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Mom settles suit filed over son's injury

By **JO ANN ZUNIGA**
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A mother whose 5-year-old son suffered severe brain damage during anesthesia at Ben Taub Hospital settled her case out of court Monday with the doctors and Baylor College of Medicine.

Glenda Smith, 27, had sued on behalf of her son, Edward Lee Smith, who has the mentality of a 1-year-old child, still must wear diapers and be spoon-fed. His brain damage occurred when the then 7-month-old suffered cardiac arrest March 22, 1984, while being drugged for a hernia operation, according to testimony in the trial that started last week.

According to a court order, neither party could comment on details of the settlement.

"All we can say is that the matter has been resolved. We were very pleased. Ms. Smith is also pleased," said her attorney, Richard Mithoff.

In her deposition, Smith stated that the boy does not smile or look directly at people, but does respond to familiar voices.

Although the original lawsuit named the Harris County Hospital District and Ben Taub as defendants, they were dropped from the suit because the two entities had no direct control over the doctors and residents, Mithoff said.

The remaining defendants, anesthesiologist Dr. Tajdin Popatia, Dr. Gregory Vuksinich and Baylor College of Medicine, which supervises the doctors and residents that staff the public hospital, settled Monday with the Smiths.

The defendants contended that there was no overdose of anesthetic and the machine was working properly. They said the child had an "untoward reaction" to the drugs, and through no fault of their own, Smith suffered low amounts of oxygen to the brain as they attempted CPR.

Such a reaction, the defendants argue, is unexpected, rare and unpredictable.

The lawsuit, heard by a five-woman, seven-man jury before state District Judge Melinda Harmon, had expected to continue through the end of the month.