

\$50M awarded over birth defect; test said baby would be OK

A King County jury awarded \$50 million to a couple whose son was born with profound mental and physical disabilities after concluding that Valley Medical Center and LabCorp mishandled a genetic test.

By [Carol M. Ostrom](#), Seattle Times health reporter



Court file, 2009
Rhea Wuth and son Oliver when he was 9 months old.

After his severely disabled cousin was found to have a rare genetic defect called an “unbalanced chromosome translocation,” Brock Wuth discovered that any future children of his were at risk.

In fact, Brock and Rhea Wuth were told they had a 50-50 chance of having a child with that defect or a related translocation. So they sought genetic counseling and testing and carefully followed all the recommendations.

When Rhea Wuth became pregnant, genetic tests pronounced their unborn child normal.

But as soon as their son was born on July 12, 2008, the Burien couple knew something was very wrong. Oliver, who has the genetic defect, was born with profound mental and physical disabilities.

On Tuesday, a King County Superior Court jury placed the blame — \$50 million worth — equally on Valley Medical Center in Renton and Laboratory Corporation of America (LabCorp), based in North Carolina.

According to court papers in the wrongful-birth case, Valley ordered a prenatal test that can be counted on to find this type of chromosomal abnormality only when the lab receives additional

information — a “road map,” essentially — showing it where to look for the specific problem. Valley failed to send that information to the lab, and never told Rhea Wuth that without the additional directions, the test results might not answer the crucial question.

Although the lab’s own procedures specify it should follow up with a phone call when such information is missing, that call was not made, said the family’s lawyer, Todd Gardner, of Renton.

The lab missed the translocation. Had the couple known of the genetic defect, they would have ended the pregnancy, according to court filings in the case.

The verdict is the largest individual award in Washington state history, according to Jury Verdicts Northwest, which tracks jury awards.

In a statement, Valley Medical Center, now part of UW Medicine, said: “We are very sorry for the tragedy the Wuth family has suffered. We continue to believe that the Valley Medical Center staff members acted appropriately.”

Medical center officials would not comment about any plans to appeal.

LabCorp, in a statement, said: “We believe the facts and the law do not support the verdict. LabCorp acted properly and diligently in performing the test that was ordered by the physician. We will consider all available options, including post-trial motions and appeal, if necessary.”

The devastating outcome in this case, Gardner argued, began with Valley’s cutbacks to genetic-counseling services at its Maternal-Fetal Medicine Clinic from three days a week to one.

He said Valley also did not replace the unit’s full-time manager, who quit in early 2007.

The mistake could have been avoided had a trained genetic counselor supervised the handoff from the hospital to the lab, Gardner said.

“I don’t think any of these people are bad people, but when you don’t give them the resources to do their job, then you create an environment where mistakes are inevitable,” Gardner said.

Oliver, now age 5½, has an IQ of 50 to 70, can’t run, walk up stairs or talk beyond a few dozen words understandable to his parents, Gardner said. “He’ll need 24/7 care for the rest of his life.”

They have arranged special-education classes and daytime help from Brock Wuth’s mother, Gardner said.

The Wuths, who are both teachers, were “incredibly responsible” in seeking information and testing, Gardner said. “There was nothing else they could have done.”

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