THE ROAD FROM MEDICAL INJURY TO CLAIMS RESOLUTION: HOW NO-FAULT AND TORT DIFFER

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I

INTRODUCTION

The no-fault system offers an alternative method to tort litigation of obtaining compensation for injuries. By eliminating negligence as a criterion for payment, the no-fault system aims to pay compensation more quickly and return a higher percentage of the liability dollar to those who have suffered harm, either to person or to property.[1] The no-fault concept has been widely applied, especially to automobile accidents, in the United States and in other countries with mixed results.[2] In the area of medical malpractice, no-fault has been of-

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1. *See* PAUL C. WEILER ET AL., A MEASURE OF MALPRACTICE 144-49 (1993).

2. No-fault (first-party liability) has replaced third-party liability in part or in full in countries such as Australia, Quebec in Canada, Israel, Sweden, New Zealand, and several states in the United States. *See* ALAN I. WIDISS ET AL., NO-FAULT AUTOMOBILE INSURANCE IN ACTION: THE EXPERIENCES IN MASSACHUSETTS, FLORIDA, DELAWARE AND MICHIGAN (1977); Donald Gifford, *The American Tort Liability System, in* WERNER PENNINGSTORF, A COMPARATIVE STUDY OF LIABILITY LAW AND COMPENSATION SCHEMES IN TEN COUNTRIES AND THE UNITED STATES 41-42 (1991); Jeffrey O'Connell & David F. Partlett, *An America's Cup For Tort Reform? Australia and America Compared*, 21 U. MICH. J.L. REFORM 443 (1988). A major issue is whether or not removing the threat of tort liability by substituting first-party for third-party liability removes the incentive that drivers would otherwise have to be careful. "Mixed results" refers to the varying impact of first-party liability on deterrence. Although results from empirical studies of no-fault automobile laws in the United States are mixed, the evidence points toward the conclusion that the implementation of no-fault has increased the rate of motor vehicle fatalities. For a review of this literature, see Frank A. Sloan, *Automobile Accidents, Insurance, and Tort Liability, in* THE NEW PALGRAVE DICTIONARY OF ECONOMICS AND THE LAW (Peter Newman ed., 1998). A key issue relevant to deterrence is whether or not insurance premiums for first-party insurance are experience rated. In many European systems, mandatory bonus-malus systems preserve drivers' incentives to be careful. *See* JEAN LEMAIRE, AUTOMOBILE INSURANCE: ACTUARIAL MODELS 163-84 (1985). In the United States, many small automobile claims are handled effectively by no-fault. *See* ALL INDUS. RES. ADVISORY COUNCIL, COMPENSATION FOR AUTOMOBILE INJURIES IN THE UNITED STATES 29-52 (1989); INSURANCE RES. COUNCIL, TRENDS IN AUTO INJURY CLAIMS, PART ONE: ANALYSIS OF CLAIMS FREQUENCY 3, 12-13

fered as a response to the criticisms leveled against tort litigation for medical injuries. These criticisms include the high overhead of the claims resolution process, mainly in the form of lawyers' fees, and the delays associated with claims resolution under tort. The tort litigation system is also criticized for giving rise to the practice of defensive medicine, widely understood to mean unnecessary care given by physicians in response to the filing of lawsuits by patients.[3]

In principle, no-fault should be a more attractive payment mechanism than tort for compensating injuries caused by medical care. After sustaining such an injury, patients often face financial crises because many of the injuries are severe and very costly to treat.[4] Yet, the claims resolution process under tort is often quite lengthy, delaying payment.[5] Further, physicians have found that problems of size and variation of payment under tort have historically threatened the availability of liability insurance coverage.[6] Theoretically, no-fault would mitigate these problems. However, empirical evidence detailing the performance of no-fault in the medical field is needed to prove no-fault's usefulness. Indeed, one national study team determined that "[a]lthough there has been little practical experience with alternatives to the tort system for resolving medical malpractice claims in the United States … based on theoretical literature, three of them appear particularly promising."[7] At the top of the list was no-fault.[8]

In this article, we examine five issues of no-fault within the context of obstetrical malpractice. First, we look at whether the no-fault compensation program has reduced the number of tort litigation claims. Second, we examine the motives of claimants who chose no-fault versus tort and the characteristics of their respective claims. Third, we analyze the effect of a no-fault system on lawyer retention and legal costs. Fourth, we examine the success of the medical

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(2d Ed, 1995). In our article, we do not assess no-fault's impact on deterrence in Virginia and Florida. In view of the limited scope of the states' programs over the observational periods, in particular, the persistence of tort, it is unlikely that there has been an effect on deterrence.

3. *See* RANDALL R. BOVBJERG, MEDICAL MALPRACTICE: PROBLEMS & REFORMS: A POLICY MAKER'S GUIDE TO ISSUES AND INFORMATION 13-15 (1995); Troyen A. Brennan et al., *Relationship Between Negligent Adverse Events and the Outcomes of Medical-Malpractice Litigation*, 335 NEW ENG. J. MED. 1963 (1996); Victoria P. Rostow et al., *Medical Professional Liability and the Delivery of Obstetrical Care*, 321 NEW ENG. J. MED. 1057 (1989).

4. *See* Randall R. Bovbjerg et al., *Juries and Justice: Are Malpractice and Other Personal Injuries Created Equal?*, 54 LAW & CONTEMP. PROBS. 5 (Winter 1991); Patricia M. Danzon et al., *Tort Reform and the Role of Government in Private Insurance Markets*, 13 J. LEGAL STUD. 517 (1984).

5. *See* U.S. GENERAL ACCOUNTING OFFICE, MEDICAL MALPRACTICE: CHARACTERISTICS OF CLAIMS CLOSED IN 1984 (1987).

6. *See, e.g.*, BOVBJERG, *supra* note 3, at 16-17; PATRICIA M. DANZON, MEDICAL MALPRACTICE: THEORY, EVIDENCE AND PUBLIC POLICY 97-117 (1985); FRANK A. SLOAN ET AL., INSURING MEDICAL MALPRACTICE 6-10 (1991). For more general information on cycles in the insurance industry, see, for example, Ralph A. Winter, *The Liability Crisis and the Dynamics of Competitive Insurance Markets*, 5 YALE J. ON REG. 455 (1988).

7. 1 INSTITUTE OF MED., MEDICAL PROFESSIONAL LIABILITY AND THE DELIVERY OF OBSTETRICAL CARE 11 (1989).

8. *See id.*

malpractice no-fault program by evaluating the satisfaction levels of people who have actually gone through the no-fault system. Finally, we examine the role that economic loss plays in both the no-fault and tort litigation systems.

II

IMPLEMENTATION OF NO-FAULT AS AN ALTERNATIVE TO MEDICAL MALPRACTICE TORT LITIGATION

The no-fault principle has been implemented on a limited basis in two states for neurologically impaired infants, through Florida's and Virginia's Birth-Related Neurological Injury Compensation Plan.[9] Both programs were implemented in response to increased frequency and severity of tort claims, skyrocketing insurance premiums, and insurers' withdrawal from the coverage market, resulting in the prospect of unavailability of medical malpractice insurance coverage.[10] Obstetrics in general, and neurological birth-related injuries in particular, have been subject to relatively high rates of claims and large payments.[11]

A. Florida's Birth-Related Neurological Injury Compensation Plan

The Florida law, implemented on January 1, 1989, and the larger of the two no-fault programs, defines a birth-related neurological injury as an injury to the brain or spinal cord of a live infant weighing at least 2,500 grams at birth, caused by oxygen deprivation or mechanical injury occurring during labor, delivery, or resuscitation in the immediate postpartum period, which leaves the infant permanently and substantially mentally and physically impaired.[12] Disabilities or death caused by genetic or congenital abnormality are excluded. Also excluded are temporary and minor birth-related injuries, injuries attributable to care rendered before or after labor and delivery, stillbirths, preterm infants, and injuries to mothers.

Under Florida's no-fault program, payment is made for the cost of necessary medical and custodial care, but any payment from collateral sources is deducted. The program also caps payment for pain and suffering at $100,000. The no-fault compensation plan is financed by payments from participating obstetricians, who contribute $5,000 per year; all other Florida physicians exclud-

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9. *See* FLA. STAT. chs. 766.301-.316 (1997); VA. CODE ANN. §§ 38.2-5000 to -5021 (Michie 1994).

10. *See* VA. CODE ANN. § 38.2-5001 (Michie 1994); Richard A. Epstein, *Market and Regulatory Approaches to Medical Malpractice: The Virginia Obstetrical No-Fault Statute*, 74 VA. L. REV. 1451 (1988); Lawrence H. Framme, *Cinderella: The Story of HB1216*, 114 VA. MED. 284 (1987); Kenneth V. Heland & Penny Rutledge, *No-Fault Compensation for Neurologically Impaired Infants: The Virginia Experience*, 2 CURR. OBST. & GYNECOL. 58 (1992); Jill Horwitz & Troyen A. Brennan, *No-Fault Compensation for Medical Injury: A Case Study*, 14 HEALTH AFF., Winter 1995, at 164; David J. Nye et al., *The Causes of the Medical Malpractice Crisis: An Analysis of Claims Data and Insurance Company Finances*, 76 GEO. L.J. 1495 (1988).

11. *See* Marvin Cornblath & Russell L. Clark, *Neonatal Brain Damage—An Analysis of 250 Claims*, 140 W. J. MED. 298 (1984); Andrew D. Freeman & John M. Freeman, *No-Fault Cerebral Palsy Insurance: An Alternative to the Obstetrical Malpractice Lottery*, 14 J. HEALTH POL., POL'Y & L. 7010 (1989); Cynthia L. Gallup, *Can No-Fault Compensation of Impaired Infants Alleviate the Malpractice Crisis in Obstetrics?*, 14 J. HEALTH POL., POL'Y & L. 691 (1989).

12. *See* FLA. STAT. ch. 766.302 (1997).

ing residents, who contribute $250 per year; nonpublic hospitals, which contribute $50 per live birth; and a one time $40 million contribution from the state.[13]

Under the statute, no-fault compensation is an exclusive remedy, except when malicious or purposefully negligent action is involved and the tort claim is filed before no-fault compensation is made. However, Florida courts have interpreted the concept of exclusive remedy loosely by, for example, permitting families to bring tort claims instead of filing with no-fault, if the family was not informed during treatment of their physician's participation in the no-fault program.[14] The courts have held that lack of knowledge about the no-fault program deprives families of the opportunity to switch to a physician who does not participate in the no-fault program. In these cases, physicians have had a difficult time proving that the patient knew of the program prior to delivery. Even with a signed consent form, patients may still try to bring suits in tort by claiming that they did not fully understand the program and its limitations.

From 1989 until 1994, the Florida Neurological Injury Compensation Association investigated eighty-five claims and compensated thirty families.[15] By June 1996, ninety-six out of 196 cases were compensated.[16]

B. Virginia's Birth-Related Neurological Injury Compensation Act

The Virginia no-fault law came into effect on January 1, 1988. Under this law, no-fault applies to live births in which the infant sustains brain or spinal cord injuries caused by oxygen deprivation or mechanical injuries occurring during labor, delivery, or in the immediate postpartum period.[17] To be compensated, the child must be permanently in need of assistance in all phases of daily living, which makes qualification tougher than in Florida. Injury or death

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13. *See* Horwitz & Brennan, *supra* note 10, at 169.

14. *See, e.g.*, Turner v. Hubrich, 656 So. 2d 970 (Fla. Dist. Ct. App. 1995) (holding that failure to give pre-delivery notice of participation in NICA to patients before provision of medical services entitled patients to proceed with medical malpractice action). In this case, the court found that lack of notice deprived patients of an opportunity to seek services of health care providers who did not participate in NICA and who were free of its limitations and administrative remedies. *See also* Siravo *ex rel.* Siravo v. Florida Birth-Related Neurological Injury Compensation Ass'n, 667 So. 2d 971 (Fla. Dist. Ct. App. 1996); Bradford *ex rel.* Bradford v. Florida Birth-Related Neurological Injury Compensation Ass'n, 667 So. 2d 401 (Fla. Dist. Ct. App. 1995); Braniff v. Galen of Fla., Inc., 669 So. 2d 1051 (Fla. Dist. Ct. App. 1995); Behan v. Florida Birth-Related Neurological Injury Compensation Ass'n, 664 So. 2d 1173 (Fla. Dist. Ct. App. 1995).

A recent decision by the Florida Supreme Court has further eroded any barrier to tort that may have existed previously. *See* Florida Birth Related Neurological Injury Compensation Ass'n. v. McKaughan, 668 So. 2d 974 (Fla. 1996). According to this decision, the Florida Birth-Related Neurological Injury Compensation Plan, FLA. STAT. chs. 766.301-.316 (1997), does not vest exclusive jurisdiction in an administrative hearing officer to determine if an injury suffered by a new-born infant is covered by the Plan when the Plan's provisions are raised as an affirmative defense to a medical malpractice action in circuit court. A circuit court need not automatically abate the medical malpractice action when the Plan's immunity is raised as an affirmative defense pending a determination by the Hearing Officer as to the exact nature of the infant's injury.

15. *See* Horwitz & Brennan, *supra* note 10, at 170.

16. *See* Lynne Dickinson, Neurological Injury Compensation Association, Claims Status spreadsheet (describing total payments by birth year/claim year: 1/01/89 through 6/30/96).

17. *See* VA. CODE ANN. § 38.2-5001 (Michie 1994).

caused by genetic or congenital abnormalities are excluded from coverage.

The statute does not include compensation for pain and suffering, but does provide limited compensation for lost earnings. It also provides compensation for medical and other support services, with dollar-for-dollar setoffs for collateral sources. Funds for the program are raised by a per capita flat fee of $5,000 for each individual obstetrician who chooses to participate in the program. No contribution is required from physicians who do not participate. The fee for hospitals is $50 per delivery per year, with an overall cap of $150,000 per hospital. If these funds are not sufficient to support the program, it will be funded by taxes levied on all insurance companies in the state, whether they are in the business of providing medical malpractice coverage or not.

Unless gross or willful negligence is shown, a claim against the program is meant to be the exclusive remedy for eligible patients whose obstetrician participates in the program. By May of 1988, eighty percent of Virginia obstetricians had signed up for the program.[18] In March 1996, twenty-three out of twenty-nine claims were being compensated.[19]

III

ISSUES PRESENTED

Through the study of the Florida and Virginia no-fault systems, we evaluate the effectiveness of obstetrical no-fault programs. In this paper, we look at the extent to which no-fault medical injury claims supplant tort claims. No-fault is designed to be mandatory, that is, those claimants with the exact sort of injuries that the program intends to compensate are required to file with no-fault first. We examine whether this requirement has served to reduce the number of injury-related tort suits that are filed in the court system, or whether tort liability, measured in terms of obstetrical claims, remains an attractive option for families with neurologically-impaired infants.[20]

We also study the motives and characteristics of claimants and claims filed in no-fault versus tort. First, we borrow the paradigm of "naming, blaming, and claiming" from studies of tort litigation,[21] and examine whether no-fault claimants differ appreciably from their counterparts in tort. More specifically, are no-fault claimants less likely to name and blame a health care provider for their injury? Are no-fault claimants less likely to be motivated by retribution, and more interested in claiming in order to receive compensation for their injuries? Is information-gathering an objective for no-fault claimants? One would expect to see a higher fraction of claimants in the no-fault system who did not as-

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18. *See* STEPHEN D. SUGARMAN, DOING AWAY WITH PERSONAL INJURY LAW 109 (1989).

19. *See* Lisa Heath, Virginia Birth-Related Neurological Injury Compensation Program, Virginia Birth-Related Neurological Injury Compensation Program Spreadsheet, March 20, 1996 (on file with author).

20. *See supra* text accompanying notes 9-19; *see also supra* note 14.

21. *See* William L.F. Felstiner et al., *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming*, 15 L. & SOC'Y REV. 631 (1980-81).

sign blame for the injuries they incurred.[22] It is also plausible to expect claimants seeking information about how the injury occurred to prefer the more individualized and public fact-finding process of tort, which typically yields more information on events leading up to and including the injury. Further, we ask what role the claimants' familiarity with the tort litigation system plays in their choice between no-fault and tort claims. One might anticipate that families more familiar with the law and lawyers and/or with less aversion to litigation would prefer tort.

It is also plausible to expect that the mix of claims filed with no-fault agencies is systematically different from those filed under tort because negligence is no longer an issue. Injuries attributable to medical error or substandard quality of care should more likely be filed in the tort system, in part because lawyer compensation is much higher in tort. By contrast, one would expect the no-fault cases to include claims that might not have been sufficiently profitable to pursue under tort,[23] either because the claims generally involved fewer associated medical errors or negligence was difficult to determine.[24]

We also examine the issue of lawyer retention and legal costs under the no-fault system. Speed of compensation is assessed in detail in another article in this volume.[25] We hypothesize that no-fault should reduce the need for legal representation. Further, no-fault should, as intended, greatly reduce costs borne by claimants.[26] In the tort system, although the vast majority of claims are accepted by attorneys on a contingent fee basis, claimants ultimately bear the cost of such fees, whereas, in the no-fault system, the compensation plan pays lawyers' fees for claimants.[27]

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22. For empirical evidence on motives for filing medical malpractice claims, see FRANK A. SLOAN ET AL., SUING FOR MEDICAL MALPRACTICE (1993); Gerald B. Hickson et al., *Factors that Prompted Families to File Medical Malpractice Claims Following Perinatal Injuries*, 267 JAMA 1359 (1992); LaRae I. Huycke & Mark M. Huycke, *Characteristics of Potential Plaintiffs in Malpractice Litigation*, 120 ANNALS INT. MED. 792 (1994); Marlynn L. May & Daniel B. Stengel, *Who Sues Their Doctors? How Patients Handle Medical Grievances*, 24 L. & SOC'Y REV. 105 (1990).

23. *See, e.g.*, Robert D. Cooter & Daniel L. Rubinfeld, *Economic Analysis of Legal Disputes and Their Resolution*, 27 J. ECON. LIT. 1067 (1989) (discussing the economic theory of the decision to file a tort claim).

24. To our knowledge, this is the first study to compare medical error rates in claims filed with no-fault as compared with tort. For studies of error rates in medical malpractice, see FRANK A. SLOAN ET AL., *supra* note 22, at 166-68; Troyen A. Brennan et al., *Relationship Between Negligent Adverse Events and the Outcomes of Medical-Malpractice Litigation*, 335 NEW ENG. J. MED. 1963 (1996); Henry S. Farber & Michelle J. White, *Medical Malpractice: An Empirical Examination of the Litigation Process*, 22 RAND J. ECON. 199 (1991); Frank A. Sloan & Thomas J. Hoerger, *Uncertainty, Information and Resolution of Medical Malpractice Disputes*, 4 J. RISK & UNCERTAINTY 403 (1991); Frank A. Sloan & Chee Ruey Hsieh, *Injury, Liability, and the Decision to File a Medical Malpractice Claim*, 29 L. & SOC'Y REV. 413 (1996).

25. *See* Randall R. Bovbjerg et al., *Administrative Performance of "No-Fault" Compensation for Medical Injury*, 60 LAW & CONTEMP. PROBS. 71 (Spring 1997).

26. For example, the costs of interrogatories and depositions are eliminated because physicians are not called as defendants under no-fault. Empirical evidence points to low overhead cost of no-fault. For example, for the New Zealand Accident Compensation Corporation, overhead was 10% of total expenditures. *See* Patricia M. Danzon, *Malpractice Liability: Is the Grass on the Other Side Greener?*, *in* TORT LAW AND THE PUBLIC INTEREST: COMPETITION, INNOVATION, AND CONSUMER WELFARE 202 (Peter H. Schuck, ed., 1991).

27. Patricia M. Danzon, *Contingent Fees for Personal Injury Litigation*, 14 BELL J. ECON. 213

We also evaluate the success of the no-fault program from the standpoint of claimants who have gone through the process. We assess how satisfied claimants are with their lawyers, and with the administrative procedures under no-fault, and how that satisfaction compares to satisfaction under tort. Political opposition to the tort litigation system often couches the argument in terms of the welfare of injury victims.[28] Yet claimants who have actually experienced litigation seem fairly content with the process.[29] Not surprisingly, political opposition to no-fault uses a similar argument, namely that no-fault claimants are disadvantaged, either because they receive less compensation or the nonpecuniary benefits are lower because claimants receive less information about the circumstances under which the injury occurred and they have no opportunity for retribution.

Finally, we examine the role the claimants' economic loss plays in the no-fault and tort litigation systems. Because attorneys who file claims in the tort system are paid on a contingent fee basis, rather than on an hourly rate, we hypothesize that claims involving higher economic loss should be more likely to be filed in tort.

IV

DATA SOURCES AND METHODOLOGY

A. Data Sources

We obtained data from three different surveys for our study. All three surveys provided information on the Florida program, while one provided information on the smaller Virginia program.

1. *Birth Injury Survey*. The main source of information for this study was the Birth Injury/No-Fault Liability Survey conducted in 1996 for purposes of our research by Mathematica Policy Research, a private consulting and survey firm located in Princeton, New Jersey, and in Washington, D.C. The Birth Injury Survey contained questions on mothers' medical experiences (clinical history, description of events leading up to the injury, and description of the injury), legal experiences (what actions were pursued, why those actions were chosen, and their outcomes), cost experiences (various expenses associated

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(1983).

28. *See* James H. Sammons, *Implications For Physicians*, *in* MEDICAL MALPRACTICE: BASED ON THE ELEVENTH DUKE UNIVERSITY PRIVATE SECTOR CONFERENCE, 1986, at 111 (Duncan Yaggy & Patricia Hodgson eds., 1989) ("One talks about windfall profits. Yes, it is unconscionable in my view for trial lawyers to walk away from a trial with millions of dollars when the individual—who presumably was injured and for whom the award was given—walks away with 50 cents or less on the dollar."); s*ee also* PETER W. HUBER, LIABILITY: THE LEGAL REVOLUTION AND ITS CONSEQUENCES (1988).

29. *See* Ellen Wright Clayton and David F. Partlett, *Lawyer-Client Relationships*, *in* SLOAN ET AL., *supra* note 22, at 86-87. This conclusion is for medical malpractice. In a study of claiming for accidents more generally, satisfaction was lower overall. *See* DEBORAH R. HENSLER ET AL., COMPENSATION FOR ACCIDENTAL INJURIES IN THE UNITED STATES 139-41 (1991).

with the injury), compensation and allocation experiences (compensation received and how resources were used), and background characteristics (age, race, marital status, income, and education level).

The sampling frame consisted of 255 women who experienced a birth-related injury and subsequently filed either a no-fault claim or a medical malpractice tort claim in Florida or in Virginia. Ninety percent of the sample came from Florida and the rest from Virginia. We drew the no-fault sample from claims that had been resolved, either in favor of or against compensation, by mid-June 1996.[30] A separate tort sample was drawn from medical malpractice claims closed since mid-1989 through mid-1995 in Florida in which a permanent birth injury was involved. In Florida, all closed medical malpractice claims must be filed with the state's Department of Insurance. The filings contain a substantial amount of information, including the name of the defendant, (though not the plaintiff's). Therefore, to identify cases and plaintiffs, we supplemented the closed claims information with information from various sources, including county court records, telephone directories, and Department of Motor Vehicles records.

Interviews of claimants were conducted by telephone between January and June 1996. A total of 122 interviews (47.8 percent of sample) were fully completed and two were partially completed. Of the interviews, eighty-five percent were conducted with Florida sample members and fifteen percent with Virginia sample members. Of those not interviewed, ninety were not locatable, thirty-six refused, and the remainder were not completed for various reasons. The high proportion of unlocatable claimants reflected their mobility, the fact that the principal contact was female and name changes are common at this age, and possibly because of the disruptions that the injuries caused. As anticipated, the interview completion rate was far lower for tort claimants than for no-fault claimants. Some respondents sought compensation in both tort and no-fault, and were identified through the no-fault agencies.

As part of the Birth Injury Survey, we also assessed the quality of care by reviewing medical records of both no-fault and tort claimants. First, we obtained medical records from tort claimants. To do this, we needed to obtain written permission from the tort claimants, and then ask the hospital to copy the records. Medical records of Florida no-fault claimants, some of whom also filed tort claims, were available from Florida's Department of Administrative Hearings. Medical records of Virginia no-fault claimants were obtained from the Virginia Birth Injury Fund.

Second, a research nurse trained in the use of our abstraction form, which was based on a form used in a prior study, abstracted all charts which contained sufficiently complete information.[31] Finally, the abstracted information was reviewed independently by two obstetricians at Vanderbilt University. The ob-

30. Some very recently resolved cases were drawn after the survey began.

31. *See* Stephen S. Entman et al., *The Relationship Between Malpractice Claims History and Subsequent Obstetric Care*, 272 JAMA 1588, 1588-89 (1994).

stetricians were blinded to the study questions and type of case (no-fault or tort). When the evaluators disagreed, we took an average. The evaluators were asked to make judgments about specific omissions and other errors and whether the omissions and errors were due to provider error. The errors could be in diagnoses as well as therapy. Also, the evaluators were asked to make two judgments about overall care: whether the overall care was substandard and whether the evaluator would recommend the patient's physician to a family member, based on information and impressions derived from the medical records.

2. *Medical Malpractice Claimants Survey (1989-90).* To allow us to make more definitive comparisons between no-fault and tort claimants, we included data from the Survey of Medical Malpractice Claimants on families with birth-related injuries that filed tort claims. This survey was conducted by Scientific Surveys International in Florida 1989 -1990.[32] Persons who had filed medical malpractice claims and whose cases had closed by this date were interviewed. None of the 127 families with birth-related injuries were eligible for compensation under that state's no-fault program. Many of the questions overlapped with the Birth Injury Survey, which permitted us to make direct comparisons between no-fault and tort.

3. *Obstetrical Care Survey (1992).* In a third survey, the Survey of Obstetrical Care, 963 women who gave birth in Florida in 1987 were interviewed by Mathematica Policy Research in 1992. This survey also used a combination of telephone and in-person interviews, mostly the former. Using birth, fetal death, and death records as the sampling frame, and from unpublished records of the name of the physician who delivered the baby, the survey oversampled stillbirths, infant deaths, and other probable bad outcomes, based on such indicators as low birth weight, low Apgar scores at birth, and delivery by obstetricians with high claims frequency. Of the 963 cases, 220 involved an adverse birth outcome; sixty-seven involved stillbirths, 128 involved infant deaths, and twenty-five involved permanent injuries of surviving children that had become evident by the child's fifth year. We obtained medical records on all of these 220 claimants.

B. Methodology

1. *Patterns of Filing No-Fault and Tort Claims.* Using data from the 1996 Birth Injury Survey, we divided the study group according to certain identifiable characteristics in order to test our hypotheses. First, we limited the analysis to families that filed a no-fault claim at some point in the claiming

32. This organization became a division of Abt Associates, a private consulting firm located in Cambridge, Massachusetts. For further details about this survey, see Frank A. Sloan & Penny B. Githens, *The Sample, in* SLOAN ET AL., *supra* note 22, at 17-30.

process. We eliminated claimants who filed only in tort because the Virginia sample was not supplemented with information on tort claimants from a separate information source as was Florida.

We classified the remaining families into two groups: those who filed in no-fault first and those who filed in tort first then moved to no-fault later. After eliminating the tort-only cases and those for which we had no medical evaluations of liability (independent variable), we were left with forty-seven cases that went to no-fault and fifteen cases that were filed in tort first, then in no-fault later.

In addition to dividing the Birth Injury Survey sample into groups of claimants who filed with no-fault first or tort first/no-fault later, we also separated Virginia and Florida cases, and divided the sample according to whether claims were paid, and, where not paid, whether the family sought compensation from the other source—tort when denied compensation by no-fault and conversely for those denied compensation by tort. It is logically possible to file with no-fault and tort simultaneously, but it is not possible to receive compensation from both.[33] When respondents said that they sought compensation first, it is plausible that, at a minimum, most activity centered around one or the other alternative.

2. *Motives and Characteristics of Claimants and Claims.* The 1996 Birth Injury Survey asked claimants to state reasons for filing a no-fault claim and/or a tort claim. We included three possible motives for claiming: (1) the claimant(s) wanted to make those responsible pay (retribution); (2) the claimant(s) wanted to find out what happened (information), and (3) the claimant(s) sought compensation for medical costs (compensation). Questions on motives were asked separately for no-fault claimants and for tort claimants. When the respondent was asked both questions because she filed with both no-fault and tort, we took an average of the answers. We compared values given for each motive to determine which was the most important of the three. In evaluating each individual response, we gave equal weight to a motive that was ranked as most important and the tied motives that a respondent equally rated as most important.

The Birth Injury Survey also included some open-ended questions about why one avenue was pursued rather than another. Although open-ended responses are difficult to quantify and therefore may be viewed as being "soft," they may more accurately reflect perceptions and attitudes. Also, claimants may have reasons for their decisions that we did not anticipate in our survey design.

For quality of care, we compared information from three distinct samples, using a number of measures of quality from the medical evaluations. The three samples were: (1) any claimant who had filed in no-fault from the 1996 Birth Injury Survey (N=65); (2) any claimant who filed in tort from the 1989-90 Sur-

33. *See* FLA. STAT. ch. 766.303 (1997); VA CODE ANN. § 38.2-5002 (c) (Michie 1994).

vey of Medical Malpractice Claimants and for whom we were able to obtain medical records, and (3) 171 families from the 1992-93 Birth Outcomes study (N=171). All of the observations in the third sample were for families that experienced an adverse birth outcome. No family from the third sample actually filed a tort claim, although a small fraction considered doing this. We measured quality of care by including a binary variable for "poor quality" of care, based on the medical evaluators' overall judgment of care provided during pregnancy and labor/delivery. The evaluations were rated on a five-point scale, with five being the worst quality. We took an average of the ratings of the two evaluators who judged each case. If the average was four or higher, we defined care as "poor quality." Also, we included a variable for the mean number of times the evaluators said that an aspect of care was either "marginal" or "inadequate" and attributed the error to provider fault. Finally, we also included a binary variable to identify the Virginia cases.

We also studied explanatory materials, including the mothers' demographic characteristics, pregnancy history, motives for filing the claim, nature of the injury, and quality of care. Demographic variables included the mother's age at birth year of the injured child, family income (in thousands) at the birth year of the injured child, the number of years of schooling the mother completed, whether the mother had ever used a lawyer before this claim was filed, and the number of years the mother had lived in the community as of the survey date. For pregnancy history, we included binary variables for whether or not the mother was dissatisfied with the care she received during the pregnancy and delivery or with the way details of the injury were communicated to her.

3. *Lawyer Retention and Legal Costs.* We computed claimants' legal expenses in two ways. First, based on responses to specific questions about out-of-pocket legal expenses of various types, we computed legal expenses updated to 1995 dollars ("total"). Second, we computed total legal expenses as the difference of the gross payment less what the claimant actually received ("total residual").

4. *Claimant Satisfaction.* The Birth Injury Survey asked respondents who filed a claim in no-fault questions about their satisfaction with the process of claiming under no-fault. Restricting the sample to families who applied to no-fault at any time during the claiming process, we computed mean values based on a five-point scale with one being least satisfied and five being most satisfied.

5. *Economic Loss.* Because the study sample was small, we did not distinguish between payment of a no-fault claim filed before a tort claim or a no-fault claim filed after a tort claim was denied. We assigned values to the cases depending on whether the no-fault claim was paid or not. Variables we considered included family income, schooling, injury (measured by no-fault eligibility

and economic loss[34]), a binary variable identifying the Virginia cases, and the two quality of care measures included in the previous analysis. In assessing no-fault eligibility, we evaluated whether the case appeared to have satisfied the statutory criteria for eligibility based on information we had from the Birth Injury Survey. Virginia's program had more restrictive eligibility criteria for coverage than Florida. Unfortunately, the Birth Injury Survey allowed us only to approximate Virginia's more restrictive definition.

V

RESULTS

A. Patterns of Filing No-Fault and Tort Claims

Proponents of no-fault view it as an alternative to tort. However, in practice, a substantial number of claims are brought in the tort system for the type of injuries covered by the no-fault statute, particularly in Florida. In the Florida Birth Injury Survey sample, nearly equal numbers of the 101 families initially applied to no-fault (fifty) and to tort (fifty-one) (Fig. 1).[35] Of those who applied to no-fault, twenty (forty percent) received compensation on this first round, while thirty families (sixty percent) were not compensated. However, of those thirty claimants not paid by no-fault, eight families (twenty-seven percent) pursued tort, and twenty-one families (seventy percent) did not pursue a tort claim. For those fifty-one claimants who started with tort, twenty-two (forty-three percent) received compensation, while twenty-nine (fifty-seven percent) were not compensated. Of the twenty-nine families not paid by tort in the first round, twenty (sixty-nine percent) then filed with no-fault. Of these families, thirteen (sixty-five percent) were paid by no-fault.

34. *See* Frank A. Sloan & Stephen S. van Wert, *Cost of Injuries, in* SLOAN ET AL., *supra* note 22, at 123-52; *see also* Kathryn Whetten-Goldstein et al., *Compensation for Birth-Related Injury: No-Fault Compared to Tort Systems* (unpublished paper) (on file with author at the Center for Health Policy, Law and Management, Box 90253, Duke University, Durham, NC 27708) (discussing the methodology for computing economic loss).

35. All of these families were drawn from a list of persons who filed with no-fault at some point.

FIGURE 1
CLAIMS RESOLUTION PROCESS IN FLORIDA

Patterns in Virginia differed (Fig. 2).[36] Although overall no-fault claims frequency was very low,[37] families from Virginia were more likely than families from Florida to file in no-fault first. Being a Virginian rather than a Floridian raised the probability of filing in no-fault first over twenty-two times. By contrast, there was much less activity in tort in Virginia than in Florida. Only three out of twenty-two families filed with tort at any time during the claiming process. Furthermore, the rate of no-fault claims resulting in payment was much higher than tort.

36. The methodology used to construct Figure 2 differed from Figure 1's in that the no-fault claims were not supplemented with tort claims from a closed claims file as in Florida.

37. See discussion of the Virginia program, *infra* text accompanying notes 17-19.

FIGURE 1
CLAIMS RESOLUTION PROCESS IN FLORIDA

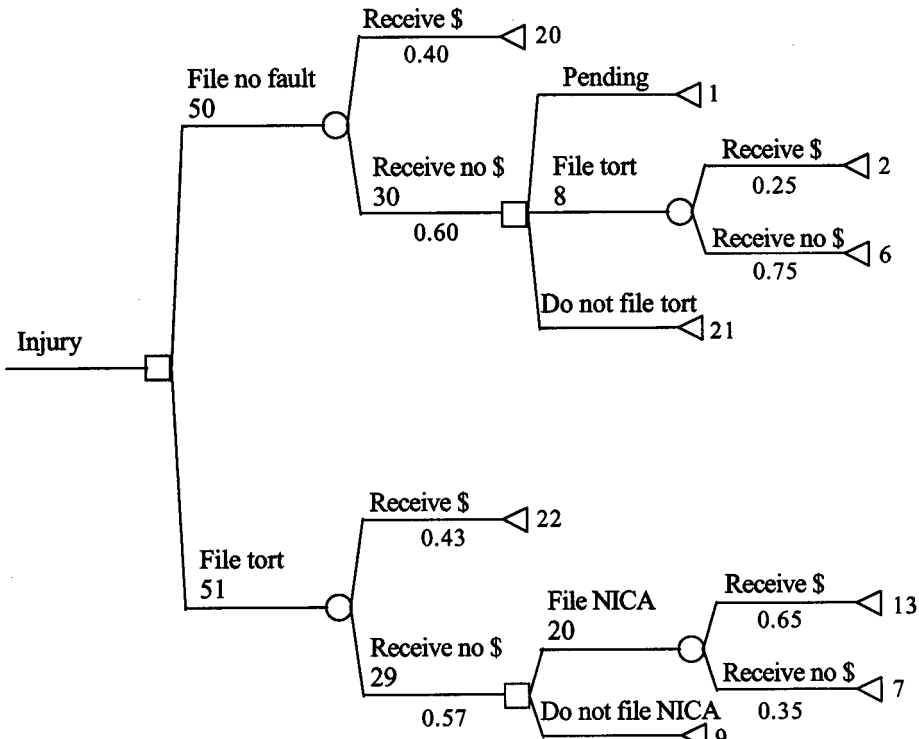

FIGURE 2
CLAIMS RESOLUTION PROCESS IN VIRGINIA

The higher rate of tort activity in Florida in part reflects our adding a tort sample obtained through the Florida Department of Insurance to the Birth Injury Survey sampling frame. However, after eliminating these observations, the propensity for Floridians to use tort was still much higher—43.8 percent initially applied to tort, instead of 50.5 percent shown in Figure 1. This percentage is directly comparable to 13.6 percent who initially applied to tort in Virginia (Fig. 2).

B. Motives and Characteristics of Claimants and Claims

1. *Naming and Blaming.* Almost all no-fault and tort claimants named and blamed someone as responsible for their child's injury or death (Table 1). Among no-fault only claimants, eighty-five percent named a health care provider responsible. Among tort only, and no-fault/then tort claimants, nearly 100 percent named a responsible person. One would expect tort claimants, who should be more interested in retribution, to be more likely to blame their physician for negligent treatment. Most claimants attributed the injury to poor medical care received during pregnancy or delivery. It is notable that fewer of the no-fault claimants attributed the injury to poor medical care before hearing any medical opinions regarding the cause of the child's injury.

FIGURE 2
CLAIMS RESOLUTION PROCESS IN VIRGINIA

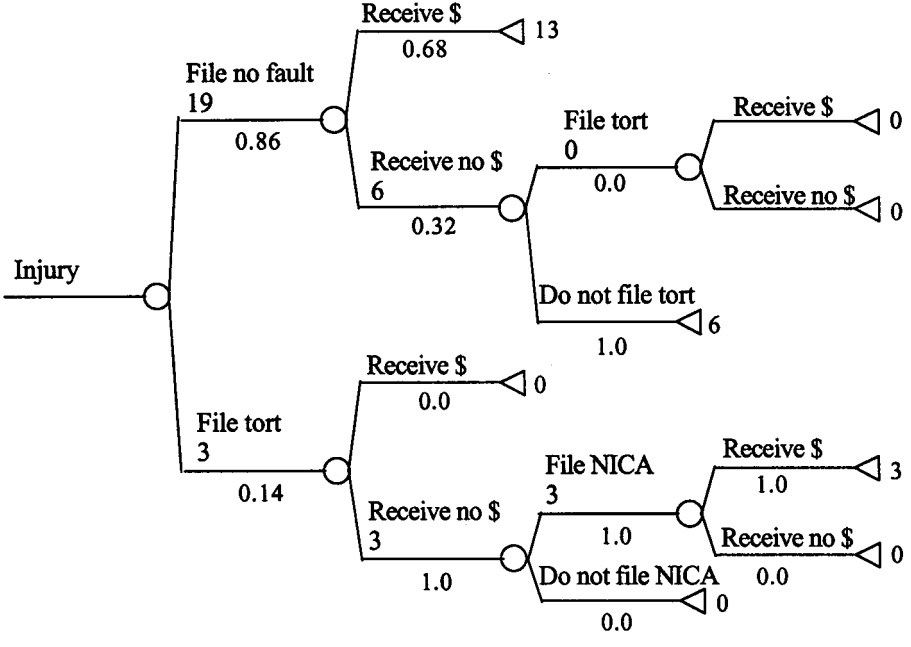

TABLE 1
NAMING AND BLAMING (% YES)

Question To Respondent	Filed No-Fault Only (N=61)	Filed No-Fault Then Tort (N=8)	Filed Tort Only (N=33)	Filed Tort Then No-Fault (N=22)
Before Hearing Something From Any Doctor Or Nurse, Did You Think Or Suspect Your Child's Injury/Death Was The Result Of The Medical Care Your Child Received?	49	88 [B]	70	68
Please Think Back To The Doctors, Nurses And Other Individuals Involved In Your Baby's Health Care: Did One Of Those People Suggest That Your Child's Injury/Death May Have Resulted From A Problem With The Medical Care Your Baby Received?	33	38	33	41
Did You Overhear Something A Health Care Provider Said That Made You Think Your Child's Injury/Death Might Be A Result Of Your Baby's Medical Care?	63	88 [C]	76	86 [B]
Was Someone Named As Responsible For Your Baby's Death/Injury?	85	100 [A]	97 [B]	100 [A]
Was More Than One Person Responsible For Your Baby's Injury/Death?	61	88 [C]	81 [B]	91 [A]

NOTE: All are 2-tailed t-tests (relative to column 1); [A] *= Significant at the 1% level;* [B] *= Significant at the 5% level; and* [C] *= Significant at the 10% level.*

SOURCE: 1996 Birth Injury Survey.

2. *Claiming.* Since there is no explicit test for negligence under no-fault, we hypothesized that claimants seeking retribution would prefer tort. Likewise, since there is no process of revealing events that led to the injury under no-fault, claimants could potentially satisfy their need to know under tort but not under no-fault. Receiving compensation may be an objective of both no-fault and tort; however, it is reasonable to speculate that claimants who pursued tort claims for money thought or were told that they could obtain more money under tort than no-fault.

Our research revealed that no-fault and tort claimants do in fact differ in their reasons for claiming (Table 2). No-fault-only claimants were more often highly motivated to claim in order to obtain compensation for medical expenses or lost family income (although the latter is not recoverable from no-fault plans in either state.[38]) By contrast, tort claimants were more likely to have been motivated by retribution—"making individuals who were responsible pay," or, to a lesser degree, to obtain information on the circumstances of the injury—"finding out what happened." Families seeking retribution were more than ten times more likely to file first in tort. Differences in the percentage distributions were uniformly statistically significant at conventional levels.

38. *See* FLA. STAT. ch. 766.31 (1997); VA. STAT. ANN. § 38.2-5009 (Michie 1994).

TABLE 2
MOTIVES FOR CLAIMING (% DISTRIBUTION)

Factor	Not At All	A Little	Fairly	Very	Extremely	Missing	Total	Chi Square
Medical Costs								
No-Fault	8	0	0	35	57	0	100	
Tort Only	24	4	0	24	48	0	100 [A]	6.6 [C]
Tort 1989	34	10	7	19	30	0	100	32.0 [A]
Loss Of Family Income								
No-Fault	26	9	5	30	30	0	100	
Tort Only	40	4	8	24	24	0	100	2.2
Tort 1989	51	8	15	13	12	1	100	21.5 [A]
Making Responsible Individuals Pay								
No-Fault	40	7	5	27	20	1	100	
Tort Only	0	0	17	17	66	0	100	25.1 [A]
Tort 1989	7	5	11	25	51	1	100	34.1 [A]
Wanted To Find Out What Happened								
No-Fault	28	7	3	24	38	0	100	
Tort Only	4	0	4	24	68	0	100	9.8 [B]
Tort 1989	8	7	7	17	60	1	100	15.8 [A]

NOTE: The chi-square statistics are relative to the top row of each category and reflect a test of significance for the distribution of the tort claimants with the no-fault claimants; A = Significant at the 1% level; B = Significant at the 5% level; and C = Significant at the 10% level.

SOURCES: 1996 Birth Injury Survey; Tort 1989; 1989-90 Survey of Medical Malpractice Claimants.

The families that sought compensation only from no-fault were asked the reasons for their decision not to pursue a tort claim. We grouped the responses into categories and quoted illustrative comments of respondents verbatim (App., Box 1). Reasons for not pursuing tort claims included the following: they believed the injury was not due to physician negligence; they misperceived that implementation of no-fault had eliminated the possibility of filing a medical malpractice claim for a neurological birth-related injury or they lacked

other information about filing a tort claim; they needed financial assistance more quickly than could be provided through tort; the statute of limitations for filing tort claims had expired; and they could not recover much under tort.

The responses to open-ended questions about why respondents who pursued tort claims did so were quite different from the responses offered by the claimants who filed in no-fault (App., Box 2). Most frequently, families who filed in tort attributed the injury to physician negligence. Others said that they needed money, a reason for claiming not unique to tort, or they wanted to obtain information about what happened. Following the recommendation of others was mentioned least frequently.

We asked respondents who filed a tort claim first before filing a no-fault claim why they pursued this course of action (App., Box 3). Again the most frequent responses indicate the importance of retribution as a goal in tort claiming. Other responses were that the families sought more money than they thought no-fault would provide and they wanted to obtain information about what happened. These claimants presumably believed that the individualized public fact-finding process of tort would yield better information about the events leading up to the injury. Several of these respondents said they did not know about the option of filing for no-fault.

Lack of information about no-fault is also apparent from responses to an open-ended question about why respondents did not pursue a no-fault claim (App., Box 4). The no-fault programs require that participating providers inform their patients of this fact during the course of prenatal care.[39] Failure to inform patients about no-fault can result in the filing of a tort claim against an obstetrician who participates in the no-fault program.[40] Most respondents to this question reported they did not obtain information about no-fault from their prenatal health care provider.[41] Many said they learned about it from an attorney, presumably after the injury occurred, during the claiming process.

3. *Familiarity with Lawyers.* We anticipated that families with more familiarity with the law and lawyers, and/or with less aversion to litigation would prefer tort. In fact, claimants were ten times more likely to file in tort if they had used a lawyer previously. This difference was notable though not statistically significant.

4. *Quality of Care.* We hypothesized that claims resulting from lower quality of care (negligence) would go to tort first. Overall, our medical evaluators judged that quality of care was worse for the sample of tort

39. *See* FLA. STAT. ch. 766.316 (1997)

40. *See supra* note 14.

41. In a physician survey related to our no-fault study, most doctors claimed they inform patients during prenatal care visits about the doctor's participation in the no-fault program. Not surprisingly, patients reported they did not remember this, or did not pay attention to the information until after a birth injury occurred. *See* Frank A. Sloan et al., *The Influence of Obstetrical No-Fault on Obstetricians' Practice Patterns* (unpublished paper) (on file with author at the Center for Health Policy, Law and Management, Box 90253, Duke University, Durham, NC 27708)

claimants than for no-fault claimants (Table 3).[42] The evaluators measured quality of care in terms of percent of cases with poor overall quality, percent of cases in which the evaluator said that s/he would not be likely to refer the family to this physician based on his or her review of the medical record, mean number of medical errors per case, and in terms of mean number of errors attributed by the medical evaluators to fault.

TABLE 3
MEASURE OF QUALITY OF MEDICAL CARE RECEIVED
DURING PREGNANCY AND BIRTH OF CHILD

Group	N	% Cases With Poor Overall Quality	% Cases Where Rater Unlikely To Refer Family To Doctor	Mean No. Of Errors Per Case	Mean No. Of Errors Per Case With Fault
Any No-Fault (1996)	65	36.9	37.3	0.36	0.18
Tort Claimants (1989)	26	57.7[C]	57.7[C]	0.54	0.52[C]
Nonclaimants (1992)	171	8.2[A]	12.9[A]	0.50	0.11

NOTE: All are 2-tailed t-tests(relative to row 1); A = Significant at the 1% level; B = Significant at the 5% level; and C = Significant at the 10% level.

SOURCES: 1996 Birth Injury Survey for any no-fault claimant; 1989-90 Survey of Medical Malpractice Claimants; 1992 Survey of Birth Outcomes.

Quality tended to be best in the sample of women surveyed in 1992 who had delivered babies in Florida in 1987; all had experienced adverse birth outcomes, but none filed a tort claim. None could file in no-fault since the Florida program only started with births occurring in 1989 and thereafter.

In the analysis, quality of care differences between no-fault and tort were significant for three of the four measures: poor overall quality, low likelihood of referral, and medical errors attributable to fault. The exception was mean number of medical errors per case. The mean number of errors was higher for tort claims than for no-fault claimants, but not statistically significant. Judging by two indicators, percent of cases judged to be poor quality overall and the percent of cases the medical evaluators would be unlikely to refer a family member to the doctor whose case was being reviewed, there were appreciable differences in quality between nonclaimants and no-fault claimants which were statistically significant at the one percent level. Also, the mean number of medical errors per case judged by the evaluators as attributable to fault was

42. Detailed findings are presented in a forthcoming paper by Entman and co-authors.

lower for the nonclaimants than for the no-fault claimants. However, the mean number of overall medical errors per case was higher for the nonclaimants.

C. Legal Representation

1. *Lawyer Retention.* Ideally, no-fault should eliminate all or at least greatly reduce the need for legal representation. In general, more lawyers were involved in cases that went to tort than those that went to no-fault, especially if the claimant first went to no-fault and then to tort. However, almost all claimants, both in the tort and no-fault systems, used a lawyer (Table 4). Only seven percent of the no-fault only claimants did not use a lawyer. Although "ambulance chasing" by lawyers is frequently alleged, especially for high dollar cases such as those that occur frequently in obstetrics, only rarely did the claimant retain a lawyer who first contacted her. In the sample of tort claims from the 1989-90 study, nine percent of respondents obtained a lawyer who first contacted the claimant. The percentage is lower in all of the other groups.

Overall, there appear to be few barriers to obtaining legal representation, either for no-fault or tort. Comparing no-fault only with the two tort categories (no-fault to tort and tort to no-fault), twenty-six percent of the claimants who filed only with no-fault said that a lawyer or law firm had refused to represent them. By contrast, eighteen percent of tort-only claimants from the 1996 survey said that a lawyer/law firm had turned them down. From the 1989-90 survey of tort claimants, twenty-one percent said that lawyers or a law firm had rejected their cases. These differences were not statistically significant.

2. *Legal Costs.* We evaluated legal costs both in absolute terms (based on claimant responses about out-of-pocket legal expenses) and as a percentage of the gross payment (derived from our computation of the total residual, which is the difference between gross payment and what the claimant actually received). We found that estimates of legal costs using these two approaches were similar, and that tort claimants, especially when they received compensation, incurred much higher legal expenses out-of-pocket (Table 5). The main cost was lawyer fees, followed by the expenses for expert witnesses. By contrast, under no-fault, claimants' lawyers are not paid on a contingency basis; they are paid directly by the no-fault agency. Furthermore, lawyers' fees are substantially lower under no-fault than under tort.[43] Compared to tort, no-fault practically eliminates the legal expenses for dispute resolution.

43. The percentage of an award that goes to lawyers' fees is also an issue in automobile tort claims. *See, e.g.*, INSURANCE RES. COUNCIL, PAYING FOR AUTO INJURIES 30 (1994).

TABLE 4
LAWYER RETENTION (% YES)

	Filed No-Fault Only (N=61)	Filed No-Fault Then Tort (N=8)	Filed Tort Only (N=33)	Filed Tort Then No-Fault (N=22)	1989 Tort Cases (N=127)
Question (% Yes)					
Respondent Contacted Lawyer To Help With Case	85	100	91	95	98
Respondent Retained Lawyer First Contacted Her	3	0	3	5	9
Respondent Retained Lawyer Found Herself	59	50	36 [B]	41	79
Respondent Retained Lawyer Another Lawyer Recommended	15	13	33 [C]	45 [B]	40
Respondent Did Not Retain A Lawyer	7	0 [B]	3	0 [B]	1
Lawyer/Law Firm Refused Case	26	38	18	32	21
Mean Values					
Number Of Lawyers/Law Firms Contacted	1.52	2.50 [A]	1.70	2.10	1.72 [C]
Number Of Lawyers Or Law Firms Actively Involved w/ Case	1.02	2.38 [A]	1.34 [B]	1.32 [C]	1.24 [C]

NOTE: All are 2-tailed t-tests (relative to column 1); A = Significant at the 1% level; B = Significant at the 5% level; and C = Significant at the 10% level.

SOURCES: 1996 Birth Injury Survey (first 4 columns); 1989-90 Survey of Medical Malpractice Claimants (last column).

TABLE 5
LEGAL COSTS (ADJUSTED TO 1995 DOLLARS)

Group	Claimant Paid?	N	Total Costs Of Lawyers (1)	Other Costs Of Claiming (2)	Total Legal Costs (1)+(2)	Total Residual Costs	Residual Costs As % Of Comp-Ensation
No-Fault Only	Yes	31	1,510	537	2047	2,981	1.5
No-Fault Only	No	28	75	342	417	-	-
Tort Only	Yes	20	187,212	30,700	217,912	256,375	48.1
Tort Only	No	9	9,852	0	9,852	-	-
No-Fault,Tort	Yes	2	252,030	0	252,030	306,164	51.0
No-Fault,Tort	No	6	0	83	83	-	-
Tort, No-Fault	Yes	15	3,970	569	4,539	5,000	2.4
Tort, No-Fault	No	7	717	200	917	-	-

SOURCE: 1996 Birth Injury Survey.

D. Claimant Satisfaction

1. *Satisfaction with Lawyer.* We compared claimant satisfaction with lawyers for those who sought compensation only through no-fault and those who went only to tort (Table 6). Not surprisingly, claimant satisfaction with lawyers depended in large part on whether or not the claimant received compensation. More respondents who filed tort claims were "very dissatisfied" with their lawyers, although there was also a high percentage of nonresponses to the lawyer satisfaction question from the no-fault only group, which may represent passive dissatisfaction, less interaction with the lawyer, passive satisfaction, or a reflection of the social bias against lawyers and an unwillingness to admit they liked the lawyer. Nevertheless, overall, it appears that tort claimants were less satisfied with their lawyers.

TABLE 6
SATISFACTION WITH LAWYER (% DISTRIBUTION)

	No-Fault Only Paid (N=23)	No-Fault Only Unpaid (N=18)	Tort Only Paid (N=23)	Tort Only Unpaid (N=9)
Very Satisfied	56.5	27.8	39.1	33.3
Satisfied	21.7	33.3	21.7	22.2
Neutral	4.4	16.7	13.0	11.1
Dissatisfied	13.0	11.1	4.3	0.0
Very Dissatisfied	4.4	11.1	21.7	33.3

NOTE: Chi-square tests of distribution were performed and were not significant.
SOURCE: 1996 Birth Injury Survey.

2. *Satisfaction with No-Fault Process.* Satisfaction with the no-fault process virtually always depended in part on whether the claimant received payment (Table 7). Claimants who received compensation were reasonably satisfied with all aspects of the no-fault system we measured, except the "treatment of those responsible." Among the remaining measures, they were least satisfied with the "amount learned about what happened." Those who were not paid were less satisfied on nearly all the measures. The uniform scores across measures suggest that respondents who did not get paid tended to give no-fault low marks across the board, and, conversely, those who were paid tended to give no-fault high marks across the board.

TABLE 7
SATISFACTION WITH ASPECTS OF NO-FAULT PROGRAMS
(1-5 SCALE; 5=GOOD)

Measure	Paid	Unpaid
Speed Of Processing	3.47	2.12 [A]
Ease Of Communication	3.48	2.19 [A]
Respondent's Level Of Effort	3.47	2.56 [B]
Lawyer's Level Of Effort	3.62	2.50 [B]
Ability To Get Medical Care For Child	3.67	2.79 [B]
Ability To Select Providers For Child	3.56	2.79
Ability To Get Other Care For Child	3.77	2.21 [A]
Amount Learned About What Happened	3.25	2.26 [B]
Treatment Of Those Responsible	1.40	1.50
Overall Satisfaction With No-Fault	3.74	2.12 [A]

NOTE: All are 2-tailed t-tests (relative to column 1); A = Significant at the 1% level; B = Significant at the 5% level.

SOURCE: 1996 Birth Injury Survey.

Finally, we compared responses to three questions on satisfaction with the claiming experience: "Would you pursue a claim again if you could do it over again?," "Did you find out what you wanted to know?," and "Do you think claiming made it harder to get health care for your child?" We computed percentages stating "yes" to each question for claimants who went to no-fault only, for claimants who went to both no-fault and tort and for claimants who went only to tort (from the 1989-90 Survey of Medical Malpractice Claimants) (Table 8). Most families responded that they would claim again, although the percentage answering "yes" to this question was higher for tort claimants (95.1 percent, compared to 86.4 percent for any no-fault claimants and 82.3 percent for no-fault-only claimants). Also, a considerably higher percentage of tort claimants were satisfied that they learned what they wanted to know—71.5 percent for tort claimants versus 47.0 and 49.1 percent for the two no-fault claimant groups. Only about one-fifth of respondents said that filing a claim made it more difficult to get health care for the claimant's child.

TABLE 8
OVERALL PARENT EXPERIENCE (% YES)

Question	No-Fault Only	Any No- Fault	1989 Tort
Would You Pursue A Claim Again If You Could Do It Over Again?	82.3[a] (N=58)	86.4[b] (N=88)	95.1 (N=122)
Did You Find Out What You Wanted To Know?	49.1[a] (N=59)	47.0[a] (N=88)	71.5 (N=123)
Do You Think Claiming Made It Harder To Get Health Care For Your Child?	22.2 (N=54)	22.8 (N=79)	20.5 (N=122)

NOTE: All are 2-tailed t-tests (relative to column 3); A = Significant at the 1% level; B = Significant at the 5% level; and C: Significant at the 10% level.

SOURCES: 1996 Birth Injury Survey (first two columns); 1989-90 Survey of Medical Malpractice Claimants (third column).

E. Logistic Regression Analyses

In order to evaluate our data and compare the no-fault and tort systems, we ran two separate analyses. The first analysis focused on the economic aspects of no-fault, and examined the degree of economic loss, amount of compensation, and probability of compensation. The second analysis focused on the number of people choosing no-fault versus tort, the motives and characteristics of claimants and claims (including the quality of care received), the role of attorneys and attorney fees, and the satisfaction of claimants in the two systems.

1. *Economic Loss, Payment of Claims, and Probability of Compensation.* In the first analysis, we examined the role of economic loss in the no-fault system, and whether the no-fault claim resulted in payment. We examined the following relationships. First, we anticipated that the probability of payment was higher for the cases we classified as "no-fault" eligible. Second, we anticipated that quality of care should play no role in determining compensability under no-fault. Third, we explored whether mothers with more schooling might be more successful in claiming.

Of the no-fault claims that were paid, we independently judged seventy-four percent to be no-fault eligible; of those not paid, we judged forty-eight percent to be no-fault eligible (Table 9). Cases which we judged eligible for no-fault were more likely to go to no-fault initially. On average, economic loss for paid no-fault cases was $318,000 as compared to $214,000 for cases not paid by no-fault. Virginia had a higher rate of paying no-fault claims than Florida. The mean number of medical errors per case attributable to provider fault was almost five times higher for paid than for unpaid claims. However, there was no statistically significant difference between the two groups in the percentage of paid cases for which quality was judged to be below due-care standards.

TABLE 9
LOGISTIC REGRESSION FOR WHETHER NO-FAULT PAID

	Means (St. Dev.)		Odds Ratios
	Paid	Unpaid	(95% CI)
Explanatory Variables	(N=35)	(N=27)	(N=62)
Mothers' Characteristics			
Family Income ($0,000's)	3.0	3.9	0.79
	(2.2)	(3.3)	(0.59-1.07)
Years Of Schooling	13.9	13.9	1.14
	(2.8)	(2.2)	(0.83-1.54)
Injury			
No-Fault Eligible	0.74	0.48[B]	4.34[B]
(Yes=1)	(0.44)	(0.51)	(1.12-16.88)
Economic Loss	3.18	2.14[A]	1.74[B]
($00,000's)	(1.54)	(1.41)	(1.04-2.91)
Program Type			
Virginia	0.37	0.15[B]	3.08
	(0.49)	(0.36)	(0.65-14.60)
Quality Of Care			
Overall Quality Of Care Below Standard	0.46	0.44	1.26
	(0.51)	(0.51)	(0.33-4.77)
Average Number Of Errors	0.29	0.06[B]	6.18[C]
Per Case With Fault Assigned	(0.59)	(0.18)	(0.76-49.98)

NOTE: The first two columns report results from a test of means, using a 2-tailed t-test(relative to columns 1 and 2) and the third column reports results of a chi-square test; [A] *= Significant at the 1% level;* [B] *= Significant at the 5% level; and* [C] *= Significant at the 10% level.*

SOURCE: 1996 Birth Injury Survey.

In the regression analysis, eligibility for no-fault coverage increased the probability that the claim was paid by 400 percent. High economic loss cases were more likely to be paid. Raising economic loss by $100,000 almost doubled the probability that the case will be paid (odds ratio = 1.74). Cases with a high mean number of errors attributable to no-fault were six times more likely to be paid. Our evaluators found equal percentages of cases filed in tort and in no-fault where the medical care received was substandard. However, the evaluators identified twice as many medical errors in cases filed initially in tort. Although not statistically significant, higher educational attainment, being a Virginia claim, and care below the due-care standard increased the probability that the no-fault claim was paid. In addition, higher income families were less likely to be compensated.

The result for the influence of quality of care on likelihood of obtaining compensation is particularly striking, but also understandable. Restricting coverage to cases more clearly involving adverse events during pregnancy and delivery increases the share of paid cases involving negligence even if this was not the statute's intention. The fact that cases involving higher economic loss were more likely to be paid probably also reflects the way in which the program determines eligibility for payment.

A study of no-fault based on data from the 1996 Birth Injury Survey and the 1989-90 Medical Malpractice Claimants Surveys found that families who received compensation in tort were overcompensated for their injuries on average. By contrast, recipients of Florida no-fault compensation broke even.[44] The families with birth-related injuries who received neither tort nor no-fault experienced losses of nearly $100,000 during the first five years following birth. In part of that analysis, the authors limited the sample to children with cerebral palsy. In these cases, overcompensation by tort was even greater, while no-fault recipients were undercompensated. The cost of care for tort and no-fault recipients for cerebral palsy was the same. The difference between tort and no-fault compensation levels was attributable to payment for income loss under tort but not under no-fault. If claimants who filed in tort and received settlement payments are combined with those who recovered damages in tort, tort claimants as a group are undercompensated for their injuries.[45]

2. *Regression Analysis on Decision to File with No-Fault First.* We performed a separate regression analysis to examine the relationship between the decision to file with no-fault first, and the characteristics and motives of claimants and claims. Only two of the variables tested were statistically significant at the five percent level or higher, and consequently most notable, in distinguishing claimants who chose to file in no-fault first from those who filed in tort first. These were the motive of retribution (wanting those responsible to pay), and the average number of medical errors per case with fault assigned (Table 10). Claimants who wanted those responsible to pay were over ten times more likely to file with tort first. Claimants who received low quality obstetrical care, as judged by our medical evaluators, were also much more likely to pursue a tort claim first.

44. *See* Whetten-Goldstein et al., *supra* note 34.
45. *See* Sloan & van Wert, *supra* note 34, at 123-52.

TABLE 10
LOGISTIC REGRESSION FOR DECISION TO FILE WITH NO-FAULT FIRST

	Means (St. Dev.) No-Fault First?		Odds Ratios
	Yes	No	(95%CI)
Explanatory Variables	(N=47)	(N=15)	(N=62)
Mother's Characteristics			
Age At Birth Of Child	29.1	28.2	1.17
	(5.4)	(7.1)	(0.92-1.48)
Family Income ($0,000's)	3.47	3.13	1.25
	(2.4)	(3.7)	(0.86-1.82)
Years Of Schooling	13.9	13.9	0.66 [C]
	(2.4)	(2.9)	(0.42-1.05)
Previous Experience With	0.45	0.53	0.09 [C]
The Legal System	(0.50)	(0.52)	(0.01-1.44)
Number Of Years Living	10.7	13.4	0.95
In The Community	(9.1)	(14.8)	(0.85-1.02)
Pregnancy History			
Unhappy With Some Aspect Of Care	0.87	0.67	6.63 [C]
	(0.34)	(0.49)	(0.75-58.45)
Why Filed Claim			
Wanted Those Responsible To Pay	0.40	0.73 [B]	0.08 [B]
	(0.50)	(0.46)	(0.01-0.91)
Wanted To Find Out What Happened	0.51	0.73	0.31
	(0.51)	(0.46)	(0.04-2.32)
Wanted Medical Costs Paid For	0.92	0.93	0.11
	(0.28)	(0.26)	(0.00-525.49)
Injury			
No-Fault Eligible	0.64	0.60	2.04
(Yes=1)	(0.48)	(0.51)	(0.34-12.09)
Economic Loss	2.95	2.01 [B]	1.57
($00,000's)	(1.54)	(1.45)	(0.80-3.09)
Program Type			
Virginia	0.34	0.06 [A]	22.23 [C]
	(0.47)	(0.26)	(0.89-554.05)
Quality			
Overall Quality Of	0.47	0.40	3.12
Care Below Standard	(0.50)	(0.51)	(0.36-27.18)
Average Number Of Errors	0.15	0.30	0.10 [B]
Per Case With Fault Assigned	(0.36)	(0.70)	(0.01-1.01)

NOTE: All are 2-tailed t-tests; A = Significant at the 1% level; B = Significant at the 5% level; and C = Significant at the 10% level.
SOURCE: 1996 Birth Injury Survey.

There were several notable findings between tort and no-fault claimants that did not rise to the level of statistical significance at the five percent level or higher. First, those who filed initially with no-fault were more likely to have been unhappy with some aspect of their care, thus demonstrating that many no-fault claimants blamed their providers for the injury, but nevertheless chose to file with a program that does not assign fault. Second, mothers with more education were more likely to pursue a tort claim first. Third, Virginians were much more likely to file in no-fault first. Fourth, families who filed initially in tort were more likely to have had prior experiences with the legal system and to have lived in their communities for a longer period of time. This finding runs counter to the idea that long-time residents of a community may be more reluctant to file suit.

VI

DISCUSSION

A. Does No-Fault Supplant Tort?

To the extent that no-fault is enacted as a "tort reform," as the term is commonly used, it must be seen as a method to alleviate the perceived problems in tort, particularly the high cost of medical malpractice insurance and the frequency of filed claims. The issue of whether no-fault supplants tort can be examined in several ways. In this article, we asked whether the mandatory nature of the no-fault statutes served to reduce the number of tort claims filed. We examined whether no-fault claimants differ from tort claimants and whether the claims themselves differ. In particular, we examined the claims to find if there were more substandard care in tort claims than in no-fault claims. If so, this would be evidence against the substitution of no-fault for tort. We also asked whether the implementation of no-fault lowered both the use of attorneys and the legal costs associated with medical malpractice claims. Fourth, we examined levels of satisfaction of no-fault claimants and tort claimants with their lawyers and with the claims process itself. Finally, we examined the relationship between the economic loss suffered by the claimants and the decision to file in no-fault.

1. *Number of Claims.* In both Florida and Virginia, the implementation of no-fault programs reduced the number of tort claims filed for birth-related injuries. In this sense, no-fault provided an alternative to the tort system, since some claimants who may have filed in tort instead chose to go through the no-fault process. Nevertheless, Floridians still showed a higher rate of tort activity,

much higher than Virginians. This may be attributed to the Florida court decisions that permit plaintiffs to essentially choose between tort and no-fault, even though no-fault was designed to be an exclusive remedy. Virginia claimants were more likely than Florida claimants to rely exclusively on no-fault. This reliance may reflect differences in the way the Virginia program operates or may reflect that Floridians tend to be more litigious.[46]

2. *Motives and Characteristics of Claimants and Claims.* Both tort and no-fault claimants were interested in obtaining compensation. Tort-first claimants were more highly motivated than no-fault first claimants to seek retribution. Among tort-first claimants, seventy-three percent said they wanted those responsible to pay, compared to forty percent of the no-fault first claimants. This motive may be encouraged by the tort system itself, and more specifically by plaintiffs lawyers, who may emphasize the goal of retribution in order to alleviate their clients' parental guilt over the injury and keep them interested in pursuing the tort claim as the case progresses. Not surprisingly, no-fault claimants were more interested in obtaining compensation for medical injuries and lost family income than in seeking retribution. No-fault is an effective compensation method for these types of claimants because it provides fast compensation without an assessment of blame.

The quality of care received also bears a relationship to the decision of whether to file in no-fault or tort. No-fault was designed to include cases that could not meet liability standards of negligence. In this sense, no-fault should be a supplement, not a substitute for tort. In fact, although the quality of care, as judged by independent medical evaluators, tended to be better under no-fault than tort, the quality was lower than in a sample of birth-injured children who did not file claims at all. Clearly, in terms of underlying quality of care, the no-fault claims sample was "tort-like"— if not completely similar to tort— in that there were physician errors present in the no-fault cases. However, no-fault is a viable alternative for families whose injuries do not rise to the level of negligence yet still experience substandard quality of care. Furthermore, some families who may have experienced injuries attributable to negligence may still prefer to file under no-fault for reasons such as wanting to avoid litigation, achieve faster claim resolution, and avoid blaming a physician. Viewed from a societal perspective, if quality of care in no-fault cases is not substantially better than tort, a logical implication is that no-fault benefits some potentially negligent doctors by letting them off the hook.

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46. *See* Richard A. Posner, *Explaining the Variance in the Number of Tort Suits Across the United States and Between the United States and England*, 26 J. LEGAL STUD. 477 (1997). As further evidence of the litigiousness of Floridians, obstetrical premiums for medical malpractice insurance were far higher in Florida than in Virginia. In fact, Florida's premiums have been among the highest in the United States, whereas Virginia's premiums have been below the national mean. *See* Stephen A. Norton, *The Medical Malpractice Premium Costs of Obstetrics*, 34 INQUIRY 62 (full data in underlying Working Paper 06559-01, on file at the Urban Institute, Washington, D.C., June 1996).

3. *Lawyer Retention and Satisfaction and Lowering of Costs.* Although we hypo-thesized that the no-fault system would reduce the need for lawyers, we found that most claimants retained lawyers. Claimants may have been reluctant to go through an administrative hearing without an attorney, even though the hearings are informal. This reluctance may also reflect that claimants lacked detailed information about the process until they actually began to seek compensation. Overall, it appears that no-fault claimants were more satisfied with their lawyers than tort claimants. This satisfaction may be a reflection of the low legal costs incurred in the no-fault process. From the standpoint of claimants, lawyers' fees, including the payment made directly to claimants' attorneys, are much lower in no-fault than in tort.[47] In fact, no-fault virtually eliminates legal expenses for no-fault claimants. The lower attorney fees probably reflect that attorneys spent fewer hours working on no-fault cases. Proving negligence comes at a cost.

No-fault also reduced the amount paid in compensatory damages. No-fault does not pay for parental income loss, and places a more restrictive limitation on payment of pain and suffering and loss of consortium claims (non-economic losses) than tort. Non-economic loss is real, but difficult to quantify with any degree of accuracy; income loss, however, is both real and quantifiable. Initially, eligibility determination and dispute resolution is less costly under no-fault as compared to tort litigation. Savings in these areas should allow a given "compensation" budget to cover more injuries. No-fault cases are never closed, and thus may be more expensive to administer as money is awarded to families to cover expenses resulting from the injury as the need arises.

4. *Claimant Satisfaction with the No-Fault Program*. Overall, those compensated by the no-fault program were satisfied with the process. In fact, satisfaction with the no-fault system depended on compensation; claimants who received compensation were satisfied with the system, while claimants who did not receive compensation were dissatisfied with the system. For those who received compensation, no-fault provided a faster and less contentious way to obtain compensation for a specific type of serious injury. Additionally, no-fault claimants may feel satisfied with the process because they did not have to undergo the stresses of preparing for a formal court hearing and of facing the medical personnel involved in the injury, who rarely participate in no-fault hearings.

5. *Economic Loss.* Economic loss was almost $100,000 higher for those who filed with no-fault first. This result seems implausible at first, given the contingent fee system found in tort, where lawyers may potentially obtain higher fees when they take cases with higher economic loss. On the other hand,

47. *See* Frank A. Sloan et al., *No-Fault System of Compensation for Obstetric Injury: Winners and Losers*, 91 OBST. & GYNECOL. (forthcoming 1998).

claimants who have suffered high economic losses may prefer filing in no-fault because it provides compensation faster than tort. High economic loss may cause claimants to prefer faster compensation through the no-fault system, rather than obtaining higher compensation through a slower tort process, which carries with it the added risk of no recovery. Also, high economic loss claimants may have suffered more severe injuries, and may be in need of faster compensation in order to begin and pay for more complex treatment.

B. Generalizability of Our Findings on the Future of Tort

Our findings are representative of what has happened in Florida and Virginia since the inception of the no-fault programs. The samples include most of the families who claimed with the two programs as of the survey date. It is likely that the experience of these two states should not differ from other states that might choose to implement similar no-fault programs. Assuming tort law in Florida and Virginia is largely typical of that in other states, we would expect similar results from states that implement similar no-fault programs. The programs are quite limited in scope and thus do not exist in the spirit of compensation that is ideally no-fault. Extending the program's applicability may increase the significance of the differences we have noted, but is unlikely to change the direction of the effects.

VII

CONCLUSION

The no-fault programs in Florida and Virginia have compensated some families who experienced serious neurological birth-related injuries. Families compensated by the programs were satisfied with the process. With respect to motives, no-fault claimants tended to be less interested in retribution and information gathering than tort claimants. All claimants were interested in obtaining compensation. No-fault claimants received somewhat better care than tort claimants, although the quality of care was not as good as the care of those who experienced injuries but did not claim. No-fault claimants also suffered higher economic losses than their tort counterparts.

The no-fault programs compensated limited numbers of families. Thus, no-fault is at best a partial substitute for tort. Some no-fault claims may have been paid by tort, yet some cases that were compensated by no-fault would probably never have been brought as tort claims. Although no-fault did not provide coverage for many children with permanent neurologic birth-related injuries, the programs were still successful in that they compensated some families without the burden of litigation.

APPENDIX

BOX 1
WHY RESPONDENTS DID NOT PURSUE TORT (VERBATIM QUOTATIONS)

PHYSICIAN NOT NEGLIGENT

- We felt they did the best they could do, or both of us would have died.
- I wasn't looking for that. I didn't think the doctors were to blame. It was too much to go through.
- Because the circumstances were vague. There was no documentation or proof, and I don't feel my doctor was careless or at fault. I just wanted some way to pay for what my child needed. I didn't want to be punitive. It wasn't the doctor's fault. It was unseen; very rare.

THOUGHT NOT ELIGIBLE TO FILE/LACK OF INFORMATION ABOUT TORT

- Because in Florida, a lawsuit can't be filed in this sort of case. The lawyer gave me this information. The lawyer told us the hospital was protected and our only option was NICA.
- Since doctors are covered by no-fault, I didn't need to sue, and my child filled the criteria.

NEEDED HELP QUICKLY

- I worked in a law office. I was familiar with litigation and was not interested in a mess 8 or 9 years down the road.
- We needed help fast. Suing a state hospital in Florida, you can only get $250,000. I wanted long term care for her. It would take too long.

STATUTE OF LIMITATIONS EXPIRED

- It was too late. She was 5.

RECOMMENDATION OF OTHERS

- It was recommended to us by our lawyer and other doctors and lawyers our attorney spoke with while researching if we had enough for a malpractice suit.
- I was concerned that my baby would need help. The lawyer said it would take a lot of money; we were not financially able to do it. We couldn't get a good settlement; it would have cost too much.
- No one would take the case, and the doctors would not talk about it.

IMPEDIMENT TO FILING

- There was no insurance or assets in the doctor's name. The practice assets had assets that were hidden. No-fault was the only hope of getting assistance for my child.

BOX 2
WHY RESPONDENTS PURSUED TORT

PHYSICIAN NEGLIGENCE/RETRIBUTION

- Because I wanted my obstetrician's license taken away. I knew he did wrong.
- Because my son was injured and it was preventable.
- When I found out that my child was ruined for life by the doctor, I didn't want it to happen again to anyone else.
- The lawyer told us we had a good chance of getting something because of what they did to us.
- I was very angry. I wanted to erase the person out of the map. This changed my life completely.
- Because they took that child from me. I HAD a normal child.
- I wanted those people punished for doing that to him.
- Because the doctor told me he made a mistake. I knew the nurses made a mistake.
- We felt that the anesthesiologist was to blame for our daughter's brain damage.
- So many people did so much wrong in the labor room that ruined my baby's life and mine and my family.

NEEDED MONEY

- We had a lot of expenses—cat scans, hiring help to take care of baby. We needed help to get by.
- Because doctors said they could not help me with medical expenses unless I sued to get long-term care in case she was mentally disabled.
- Because I know my daughter is going to need a lot of money to care for her for the rest of her life.
- I wanted a trust fund set up for my child.
- In order to get money to help with future medical expenses. His current health insurance does not cover neurologists or therapy.

OBTAIN INFORMATION ABOUT WHAT HAPPENED

- Because I felt like the doctors knew what went on and they were hiding something from me. I feel that they could have told me something was wrong.
- My sister worked at the hospital and knew of someone else at the hospital whose records had been altered.

RECOMMENDATION OF OTHERS

- After talking with my doctor (not delivery doctor), I decided to seek legal advice. I was advised by the lawyer to pursue it.

BOX 3
WHY RESPONDENTS FILED A LAWSUIT BEFORE PETITIONING FOR NO-FAULT COMPENSATION

PHYSICIAN NEGLIGENCE/RETRIBUTION

- I wanted to get to the doctors in the hospital. I didn't care about the money.
- Because the doctor was negligent and we wanted enough money to protect our daughter.
- Thought we had a strong malpractice suit. I felt the hospital and the obstetrician were negligent.
- I realized I wanted to prevent this from happening again. (P.S. He is still killing babies. I wanted his license removed.)

SOUGHT MORE MONEY THAN NO-FAULT PROVIDES

- Because I wanted to win a lawsuit against the hospital and so I wouldn't have to fight for everything.
- My lawyers thought my son would need a lot more than no-fault could give them. The lawyers wanted to see her get what she deserved.
- Just the way we felt about it. To get help.

OBTAIN INFORMATION ABOUT WHAT HAPPENED

- To find out the problem about my baby. To see if it was malpractice.
- I wanted to be sure my doctors had not nothing wrong. I wanted answers.
- To find out the problem about the baby. To see if there was malpractice.

INADEQUATE INFORMATION ABOUT NO-FAULT OR LAWYER ERROR

- Because the first lawyer said that they had messed up.
- Saw lawyer- never heard of no-fault.

DON'T KNOW

- I don't know really.

BOX 4

REASONS RESPONDENTS GAVE FOR NOT PURSUING A NO-FAULT CLAIM

PHYSICIAN NEGLIGENCE

- I felt pursuing no-fault would make the doctors and the hospital not have to answer to what they did for me.
- I think it is a bunch of crap. The doctor should pay.

INADEQUATE INFORMATION ABOUT NO-FAULT

- We would be relying on another agency that did not have our daughter's best interest first.
- Didn't know about no-fault.
- I thought it was strictly a legal course.