



# Etkind v. Suarez, 519 S.E. 2d 210 (Ga. 1999)

Topics Covered: Professional Liability, Abusive Litigation Against Physicians

**Outcome: Very Favorable**

## **Issue**

The issue in this case was whether Georgia should recognize a cause of action for “wrongful birth.”

## **AMA Interest**

The AMA strives to avoid the expansion of liability theories against physicians, which can lead to abusive litigation.

## **Case Summary**

Ms. Etkind gave birth to a child afflicted with Down Syndrome. She contended that Dr. Suarez had negligently failed to perform the necessary medical tests to evaluate potential birth defects, and she sued him for medical malpractice. The trial court entered judgment for Dr. Suarez on the pleadings, holding that Georgia does not recognize an action for “wrongful birth.” The case was appealed to the Georgia Court of Appeals, which affirmed. The case was then appealed to the Georgia Supreme Court.

The Georgia Supreme Court ruled in Dr. Suarez’s favor, affirming both the trial court and the Court of Appeals.

## **Litigation Center Involvement**

The Litigation Center, along with the Medical Association of Georgia, filed a brief in the Georgia Supreme Court to support Dr. Suarez. The brief argued that a child should not be deemed a compensable injury, no matter what the child’s disabilities. It also asserted that an action for wrongful birth would distort the ordinary physician-patient relationship.