



THE TORONTO STAR

Partly sunny, late day shower. High 12C

Wednesday, April 26, 1995

Metro Edition

Girl wins \$15 million over Sick Kids surgery

2 doctors liable, hospital absolved

By ALAN BARNES
STAFF REPORTER

A 16-year-old girl has been awarded a projected \$15 million for lifelong care because she suffered incurable brain dam-

age following open-heart surgery when she was almost 5 years old.

A judge has found two doctors at the Hospital for Sick Children liable for an operating mistake on Jessica Hock of Winnipeg, but has absolved the hospital and other staff of any blame.

Mr. Justice Bruce Hawkins of

Ontario Court, general division, approved a structured settlement which could total more than \$15 million if Jessica Hock lives to 80 years. Her life expectancy is considered normal, the court was told.

Hawkins expressed no "relative degrees of fault" between surgeon Dr. William Williams and cardiologist Dr. Jeffrey

Smallhorn in his 14-page written judgment that was released Monday.

A 26-day trial was held last summer, 10 years after Art and Wilma Hock brought action against the doctors and hospital on behalf of their daughter.

Jessica recovered physically from a second operation to correct the error made in the first

but it is "an utter tragedy because she sustained brain damage," said Richard Sommers, the girl's lawyer.

"She's a lovely girl" but she has the mental capacity of an 8- to 9-year-old, he said. "She'll always require supervision and care. She'll not be able to live independently."

Sommers said the award is

one of the largest for personal injury.

He said it is unprecedented for a little girl to have routine open-heart surgery and end up with brain damage.

Jessica was born in Thunder Bay with a congenital heart defect — a hole in the heart — and

☞ Please see Brain, back page

Crush of fans at free Jays game



JEFF GOODE / TORONTO STAR

Blue Jays fans are caught up in a scary pre-game surge yesterday as some doors at SkyDome don't open to let them attend the first free game in the club's history. The mini-stampede left several people shaken up, including some small children, but fortunately no one was injured. Stories, A6 and Sports.

Blast suspect's friends charged

OKLAHOMA CITY (AP) — Investigators have charged two brothers who are friends of Oklahoma bombing suspect Timothy McVeigh with conspiring with him to make explosive devices in Michigan.

James Nichols, 41, and Terry Nichols, 40, were charged with plotting with McVeigh to make explosive devices in Michigan in 1992 and 1994. U.S. attorney Saul Green described them as "bottle bombs and smaller explosive devices."

McVeigh was not charged in the Michigan complaint. Green said it related only to that state.

McVeigh, a former soldier, has been refusing to speak to authorities, claiming he is a political prisoner, Reuters reports.

The Nichols brothers have been held since Friday as mate-

rial witnesses in the Oklahoma bombing.

Meanwhile, a federal law enforcement official in Washington said the vehicle McVeigh was driving when he was stopped for traffic violations shortly after the bombing showed traces of nitrates and high explosive, but that it was not yet possible to conclusively link them to last week's attack.

The official estimated the bomb weighed 2,180 kilograms, the highest figure yet.

The affidavit used to charge James Nichols said the FBI found 28 bags of fertilizer and a drum of fuel oil on his farm in Decker, Mich. The FBI has said similar substances, which are common on farms, were used to make the Oklahoma City bomb.

Also yesterday, the death toll



NEW DRAWING: FBI issues more detailed sketch of suspect John Doe 2.

in the Oklahoma City blast rose to 96 and the FBI issued a more detailed sketch of John Doe 2, the second bomb suspect.

And rescuers working at the downtown building were 24 to 48 hours away from the heart of a 250-tonne pile of rubble, the area where they expect to find at least 100 more bodies, including up to 20 children.

☞ More stories, A10-A11

Filmon's Tories win in Manitoba

WINNIPEG (Staff) — Gary Filmon's Progressive Conservatives won a third straight term in Manitoba yesterday.

The Tories were handed their second straight majority by voters sold on Filmon's seven-year record of fiscal restraint. The New Democrats led by Gary Doer retained opposition status while the Liberals lost ground.

☞ Full story, A2

Ginger Rogers dead at 83

Ginger Rogers, who made 10 of the most sublime musicals of all time with Fred Astaire, beginning with *Flying Down to Rio* (1933) to *The Barkleys Of Broadway* (1949), died yesterday of natural causes at her Rancho Mirage home in California at the age of 83.

The tough trouper, star of both stage and screen, had been left virtually wheelchair-bound by a stroke in the mid-1980s.

☞ Full story, C1

PQ has no 'guts' Chrétien charges

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Brain-damaged patient awarded \$15 million

☞ Continued from A1

brought to the Hospital for Sick Children for a checkup when she was one month old, the judge noted.

As part of this condition, there was a narrowing or blockage of the outlet from the ventricular chamber into the artery that takes the blood to the lungs, Sommers said.

He said it was noted during the initial examination and a decision was later made to have her return to the hospital when she was about 4 or 5, considered the best age for the necessary corrective surgery.

Hawkins found that during his examination of Jessica, two days before her first operation on May 26, 1983, Smallhorn did not identify the "muscle bundle" that was blocking the flow of blood despite the earlier finding which was available to him.

Consequently, Williams did not remove the obstruction and as a result oxygenated blood could not reach her brain and she developed brain damage, Sommers said.

Jessica was left for 2½ days in the recovery room with low blood pressure and a fast heart-beat and her condition "had deteriorated to a critical level," the judge wrote.

Nothing was done until a resident came along and made the correct diagnosis, Sommers said.

He said that a second operation was carried out immediately and the blocking muscle tissue was identified and removed.

"But by then it was too late," he said.

The judge ruled that the blockage should have been seen and then removed during the first operation.

"I find on the balance of probability" the failure to remove the blocking tissue "caused the subsequent brain damage" and that "insufficient attention was paid to the repeated observations in Jessica's medical records" about the problem, Hawkins said.

"There has been no satisfactory answer as to why the corrective surgery technique applied in the second operation were not applied in the first."

Neither Williams nor Smallhorn could be reached for comment.

Sommers said they have the right to appeal the decision but he said that "given the factual findings" by Hawkins, it was most unlikely a court of appeal would interfere with the ruling.

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STAR SINGLE COPY PURCHASE PRICE
Monday to Friday 47¢ + 3¢ GST = 50¢
(higher outside Metro and surrounding suburbs)



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School board threatens to charge day cares rent

By JANE ARMSTRONG
CITY HALL BUREAU

The East York school board wants to start charging rents of up to \$10,000 a year to day-care centres that operate in its schools, a move that could plunge cash-strapped centres deeply into debt.

Some might have to close for the summer, said Mary-Anne Bedard, a spokesperson for the Metro Coalition for Better Child Care. Others might have to consolidate.

The proposal has angered many advocates who argue that Metro's struggling child-care system barely managed to eke

through the 1995 budget debate without having to close centres. But this new proposal could push them over the brink.

"It's just one more stress they (day-care centres) don't need," Bedard said.

And Bedard fears East York's move will prompt other boards to follow suit. Already, Scarborough board chairperson Dianne Williams said her board is considering a similar rate hike in 1996.

Child-care centres currently pay \$1 a year to rent space in public schools in East York, Toronto and Scarborough. No

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Media camp takes shape for Paul Bernardo trial

By JOHN DUNCANSON
STAFF REPORTER

A media camp is quickly rising around the University Ave. courthouse where Paul Bernardo's trial for first-degree murder is set to begin next week.

A massive collection of scaffolding, 4.6 metres high and half a block long, now takes up a large chunk of sidewalk on the north side of Armoury St., just across from the main entrance to the courthouse.

The steel structure will serve as a platform for dozens of camera operators who will be staking out the court building during the trial, expected to last four months.

Work crews were also busy yesterday setting up seven portable trailers on nearby Centre Ave. to serve as the technical headquarters for those local and national TV networks planning daily coverage of one of Canada's most sensational murder trials.

Bernardo, 30, has pleaded not guilty to nine charges, including first-degree murder in the sex slayings of Kristen French, 15, and Leslie Mahaffy, 14.

French was abducted from a St. Catharines parking lot in April, 1992, and was found dead two weeks later in a Burlington ditch. Mahaffy disappeared from Burlington in June, 1991, and was found

☞ Please see Media, A7