

Vacuum use, no prehydration cited for brain trauma

Plaintiff asserts standard of care was violated in boy's birth

\$3 million

In a confidential lawsuit filed in Wayne County Circuit Court, plaintiff next friend asserted defendant hospital and defendant physicians were negligent when plaintiff minor suffered birth trauma, leaving him permanently disabled by perinatal asphyxia and mechanical trauma to the head.

In April 1997, the mother presented at defendant hospital in labor. Complaining of pain, the mother requested an epidural from the residents who were managing her care. The certified registered nurse anesthetist (CRNA) who started the epidural, however, did not prehydrate the mother, and did not monitor the mother's blood pressure after the epidural was started.

Because of this, the mother became severely hypotensive, which resulted in the deprivation of blood perfusion to the placenta and maternal brain. No medication was ever given to elevate the mother's blood pressure.

After the CRNA's realized the mother was dangerously hypotensive, the attending OB/GYN was summoned and applied a vacuum extractor at high station to deliver the child.

The child was born in a severely depressed, floppy and pale condition, had suffered from acidosis and was found to have cephalohematoma and mild ventricular dilation. The child has an IQ in the mid-70s, has limited educational and vocational potential, must attend special schools, and requires assistance with his daily life.

Plaintiff asserted the OB/GYN negligently applied the vacuum extractor, which was in clear violation of the standard of care, as was the CRNA's decision not to prehydrate the mother.

Defendants contended that the mother was adequately hydrated, and that the application of the vacuum extractor did not cause the boy's brain trauma.

The matter settled for \$3 million.

Type of action: Medical malpractice

Type of injuries: Birth trauma, causing brain trauma, cognitive delay that required extensive corrective surgical procedures

Name of case: Confidential

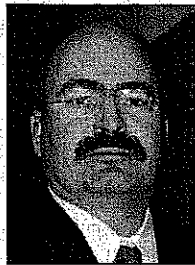
Court/Case no./Date: Wayne County Circuit Court; Confidential; August 2009

Settlement amount: \$3 million

Attorneys for plaintiff: Brian J. McKeen, Terry A. Dawes

Attorney(s) for defendant: Withheld

Key to winning: Persistent focus on defendants' concessions as to liability.



McKEEN



DAWES

Motor, cognitive defects result of delayed birth

Hospital denies asphyxia was cause of birth trauma, cerebral palsy

\$1.75 million

In a confidential lawsuit filed in Wayne County Circuit Court, plaintiff next friend asserted defendant hospital and defendant physicians were negligent when plaintiff minor suffered birth trauma, leaving her permanently disabled by spastic quadriplegic cerebral palsy.

In December 1995, the mother presented to defendant hospital, complaining of premature rupture of membranes at 30½ weeks gestation. Though the mother was stable with reassuring heart tones, she presented with serious risk factors, such as a prior C-section, prior vaginal birth after C-section, oligohydramnios, a urinary tract infection, and a positive group B strep culture.

On Dec. 22, 1995, the mother presented at defendant

hospital, showing signs of fetal distress and multiple indications that an immediate C-section was warranted. Despite this, the hospital still did not deliver the child. The mother felt the umbilical cord coming out between her legs, an indication for an immediate C-section, as the cord can kink, completely shutting-off the blood supply to the fetus. However, it still took another 20 minutes to get the baby girl delivered. The infant was born blue, in extreme distress, even her progress note on her first day of life noted that she suffered "asphyxia."

Plaintiff minor suffered motor and cognitive defects and will require round-the-clock care for the rest of her life. She requires observation while eating to ensure that she does not choke on her food, and, at age 7, still required physical therapy to be able to stand in a Rifton walker and take five steps.

Defendant's causation defenses were that plaintiff minor's APGAR scores were too high for her to be an asphyxiated child; her damages came from an unspecified and unknown infection; and her injuries were associated with prematurity, rather than birth asphyxia.

The matter settled for \$1.75 million.

Type of action: Medical malpractice

Type of injuries: Birth trauma, causing hypoxic ischemic encephalopathy and spastic quadriplegic cerebral palsy

Name of case: Confidential

Court/Case no./Date: Wayne County Circuit Court; confidential; May 2009

Settlement amount: \$1.75 million

Attorneys for plaintiff: Brian J. McKeen, Terry A. Dawes

Attorney(s) for defendant: Withheld

Keys to winning: Persistent focus on defendants' concessions as to liability, impeachment of liability experts