

January 27, 2014

Verdicts & Settlements

Heart rate misinterpreted by hospital delivery staff

Plaintiff contends hospital should have decreased mother's Pitocin intake

\$4.25 million

Plaintiff mother went to the defendant hospital at 35 weeks' gestation after noticing slight bleeding after urinating. The mother had three previous miscarriages and carried a gene associated with recurrent miscarriages.

The mother was evaluated for a premature rupture of her membranes and an external fetal monitor was placed. The fetal monitor strips along with subsequent testing would confirm that the baby was neurologically intact and healthy as of 8:40 a.m. At this time the mother was dilated 1 cm and not yet effected.

A vaginal examination was performed at 2:14 p.m., and the results showed that the mother was dilated 2 cm, 50 percent affected, with a fetal station of -2. Shortly thereafter, an order for Pitocin was written to start augmentation of labor. Because of the various risks associated with the use of Pitocin, both the mother and the baby needed to be properly monitored during this time.

After onset of labor, the Pitocin was gradually increased, resulting in excessive uterine activity. Plaintiff's counsel noted that the standard of care required Pitocin to be decreased and that fetal heart decelerations worsened when the mother was pushing.

During the course of delivery, the fetal heart rate monitor had begun to graph the mother's heart rate rather than the baby's, causing the defendants to misinterpret the increases in the mother's heart rate that were caused by the pain and discomfort ordinarily associated with contractions.

At 8:33 p.m. defendant OB/GYN performed a vaginal examination, noted that the baby's head was in the occiput transverse position, and unsuccessfully attempted to rotate the baby's head.

At 8:35 p.m. plaintiff's claimed that the OB/GYN unnecessarily employed the use of forceps, and negligently mis-

articulated to forceps as he struggled to extract the baby from the mother's uterus.

The baby was born at 8:47 p.m. with a bruised head and severe brain damage. After the baby was resuscitated with oxygen and vigorous stimulation, he was sent to the special care nursery to be further evaluated. The baby was observed as not doing well, and he was transferred to the neonatal intensive care unit.

Radiographic studies revealed that the baby sustained a subdural hematoma, intracranial bleeding and encephalopathy. The baby has since been diagnosed with permanent static encephalopathy and suffers from permanent brain damage, as well as global developmental delays.

Plaintiff deployed a team of expert physicians to establish that the defendants breached several standards of care. Plaintiff contended that defendants should have decreased the use of Pitocin, rather than increase.

In addition, the defendants failed to interpret the fetal monitoring strips correctly, as they were actually observing the mother's heart rate. Had the defendants not made such an error, they would have realized that the baby was not in distress and would not have rushed to use the forceps which caused the injury to the baby.

Defendants denied any and all breaches of the standard of care, and argued that if the baby's delivery was not hastened, plaintiff would have simply reversed her theory and sued defendants for failing to deliver the baby in a timely fashion.

In terms of causation, defendants denied that the use of forceps caused the baby's injuries and blamed the injuries on the fact that the mother had the gene associated with recurrent miscarriages, which could have been passed to the baby, and that the bleed was due to the mother's clotting disorder.

The case settled for \$4.25 million.



MCKEEN

Type of action: Medical malpractice, birth trauma	Name of judge: Withheld
Type of injuries: cerebral palsy, profound developmental delays	Settlement amount: \$4.25 million
Name of case: Confidential	Insurance carrier(s): Withheld
Court/Case no./Date: Confidential; confidential; Dec. 18, 2013	Attorney for plaintiff: Brian J. McKeen
	Attorney(s) for defendant: Withheld