

Jury awards \$130.5M in med-mal suit against Beaumont Hospital

Baby suffered brain damage resulting in cerebral palsy

By: Thomas Franz ■ in News Stories ○ October 3, 2018

An Oakland County Circuit Court jury awarded \$130.5 million to the family of a child who was two months old when he sustained permanent brain damage resulting in cerebral palsy.

A unanimous jury verdict declared that a pair of Beaumont Hospital technicians failed to provide proper care when Vihn Tran suffered a breath-holding spell while receiving an IV during an outpatient renal scan.



Plaintiff’s attorney Brian J. McKeen, managing partner of McKeen & Associates PC in Detroit, said the baby was without breath for about 12 minutes.

“It was crucial that we proved the technicians didn’t do what they were required and trained to do, which is immediately call a code blue and to immediately check a pulse and give chest compressions,” McKeen said.

Background

The incident that led to this action occurred in 2006. McKeen said at about 10:10 a.m., an IV was placed into the child, and the breath-holding spell started almost immediately thereafter.

“These breath-holding spells can be precipitated by painful events and they occasionally require resuscitation, which would need to be delivered immediately,” McKeen said.

There was a delay in recognizing the seriousness of the situation and a delay to call a code and give chest compressions, McKeen added. When a code is called, a team of experts rushes to attend to the baby.

As a result, the baby suffered deprivation of adequate oxygen and blood to the brain and suffered brain damage. The code was called at about 10:23.

McKeen noted the mother said in her testimony that she asked the technicians why her child was turning blue, and that one of the technicians picked up the baby and began patting him on the back as if he was choking.

Trial

The trial lasted for three weeks, and McKeen said his side had to overcome the defendant’s claim that the baby had an underlying condition to make him more prone to a breath-holding spell.

“The defendants try to tell a story where the reason why the baby suffered brain damage is in association with what ordinarily does not cause brain damage, because the baby had severe underlying anemia. There was no evidence to support the fact that the baby was anemic,” McKeen said.

McKeen added that the child had neonatal lupus, which can cause anemia 5-10 percent of the time. Although the baby was two months old at the time of the renal scan, he had a normal hemoglobin level at one month of age.

McKeen also said he had to refute theories from defendants about what occurred during the time of the breath-holding spell.

“Initially, the tech testified that she didn’t have any recollection of the facts beyond what was in the medical record, which said that she gave breaths but not chest compressions. After their expert witness acknowledges the standard care required chest compressions, her testimony changed that she immediately called a code,” McKeen said.

McKeen added that he used blueprints of the hospital to refute a doctor's claim of being 15 feet away from the child's room when the code was called when the doctor was actually 189 feet away.

"The timeline showed there was an untold delay in the initiation of chest compressions. The laboratory tests revealed the baby undoubtedly had not been adequately circulating for a significant period of time prior to the code being called. The baby was so hypoxic that there had to be a delay in calling the code," McKeen said.

Defendant's response

Plunkett Cooney attorney D. Jennifer Andreou represented Beaumont during the case and declined to comment on the case other than to say post-trial motions are being filed with respect to application of the cap on non-economic damages; unproven damages and reduction of economic costs to present cash value.

Beaumont Hospital officials also provided a statement on the case that stated: "We are committed to providing extraordinary care, every day. We took this case before a jury because we believe the care we delivered was appropriate. Even though the dollar amount of the verdict will be substantially reduced due to applicable law, we stand by the care we provided and are appealing."

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