VERDICTS & SETTLEMENTS

Child suffers brain injury from bacterial infection

$2,000,000 Verdict

A 3 1/2-year-old child was brought to his pediatrician's office in August of 2002 with a 103-degree fever and a history of nausea, vomiting and fever for the past two days. The first pediatrician's exam noted the child was lethargic, pale and had infected tonsils. A complete blood count was drawn, with a white blood count of 11.2. No differential was done to determine the type of white blood cells due to the office equipment available. Urinalysis showed trace blood in the urine.

The defendant pediatrician took over the examination and concluded after a negative rapid strep test that the child most likely had gastroenteritis, and the child was sent home. Over the night, the child continued to have vomiting and fever and the next day was sent to Inova Fairfax Hospital Pediatric Emergency department where the child was noted to have a history of fever and lethargy. The exam performed by the resident in the ER showed the child to be lethargic, tachycardic, tachypnic, and responding minimally to the physical exam. It was also noted that the child was dehydrated. The assessment was dehydration. A blood culture was drawn which was sent to the lab with a CBC. The CBC showed a WBC of 11.2, this time with increased bands and increased neutraphils. The labs also showed decreased platelets. Urinalysis showed moderate blood in the urine.

The child was admitted to the hospital, based on a joint decision made by the attending ER physician and the defendant pediatrician, who was now the child's attending physician, for rehydration. Upon admission the child, because of IV bolus of fluids and antipyretics, had a normal temperature and had improved some.

However, the number one assessment at that time by the resident was infection which included bacteremia. In addition to what had been ordered in the ER, a C-reactive protein was ordered to be drawn for the next day along with another CBC. During the night and through the next morning, the child continued to be described as pale, lethargic, weak in all four limbs, and in the early morning of Sunday, described as having intermittent screaming with temperature of 101.6.

The defendant saw the child at 7:45 a.m. and concluded that the child had improved from Friday and continued his plan to increase fluids and move to solid foods. Subsequent to that, the nursing staff noted the child to be extremely lethargic and in the afternoon the child was noted to be photophobic and now had a stiff neck. A lumbar puncture was performed and the child was determined to have bacterial meningitis, meningococcal type. The blood culture previously drawn came back on Monday as having grown meningococcal bacteria, the same bacteria having grown in the cerebral spinal fluid

The plaintiffs alleged that the defendant pediatrician failed, based on the child's signs and symptoms, to place bacteremia (bacterial infection in the blood) high in his differential diagnosis, and was required under the standard of care to order a blood culture to rule in or rule out bacteremia. A reasonably prudent pediatrician was required to know that the results of the blood culture would not return until 24 to 48 hours and was required to cover the suspected bacteremia with broad spectrum antibiotics pending the results.

The defendant argued that bacteremia was not required to be on the differential diagnosis because the child was non-toxic appearing. The defense also argued that the child had a relatively normal WBC of 11.2 so that was an additional reason not to place bacteremia in the differential diagnosis. Plaintiffs' experts disagreed and were well supported by the medical literature on these issues. As to causation, the defense argued that once a child was bacteremic, the cerebral spinal fluid was already seeded with the bacteria and antibiotics would not stop the inflammation process in the brain from this bacteria. Again, plaintiffs' experts disagreed, and one of plaintiffs' neurologists with a special interest in infectious diseases of the central nervous system explained why that has not been shown to be true.

As a result of the bacteremia that was allowed to go untreated and develop into meningitis, the child suffered permanent and profound hearing loss in both ears which required cochlear implants. He also suffered a permanent brain injury that resulted in permanent deficits that have affected the child educationally as well as the higher functions of the frontal lobe and his fine and gross motor skills.

[08-T-117]

Type of Action: Medical malpractice

Injuries: Profound and permanent hearing loss in both ears; brain injury

Name of Case: Confidential

Court: Fairfax County Circuit Court

Case No: Confidential

Tried Before: Jury

Name of Judge: Terrance Ney

Special Damages: $70,000 in past medical expenses; $640,000 in future medical expenses

Verdict or Settlement: Verdict

Amount: $1,930,000 for the child; $70,000 for the mother

Date: June 18, 2008

Attorneys for Plaintiff: Charles J. Zauzig, III and Melissa G. Ray, Woodbridge

VIRGINIA LAWYERS WEEKLY

VERDICTS & SETTLEMENTS

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By Virginia Lawyers Weekly
August 4, 2008

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