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January 31, 2017

TUESDAY

Court in Johnstown awards record malpractice verdict

By David Hurst

An Ohio child born with cerebral palsy and other health issues was awarded \$14.5 million for medical mistakes that led to those injuries four years ago, a federal jury ruled.

The decision against Penn Highlands' Clearfield Hospital and obstetrician Thomas Carnevale is believed to be the largest ever awarded in Johnstown's U.S. Western District Court, according to federal court staff in Johnstown and attorneys with the Philadelphia law firm that handled the case.

In their decision, jurors found that Carnevale and hospital nurses were negligent while guiding the boy's mother through labor, prescribing a drug that sped up the delivery process to the point that the child didn't have time to recover and oxygenate between contractions.

According to the lawsuit filed by the Philadelphia-based firm Kline & Specter, there were no stops to discontinue the drug, Pitocin, even as a fetal heart monitor showed the baby was being deprived of oxygen, and later, asphyxiated.

Hospital protocol prohibited use of the hormone drug in cases where patients are dilating, making progress in their labor and having strong contractions, according to a news release by Kline & Specter.

The child, identified as JDWBII in court, is now 4 1/2 years old but cannot talk, walk or sit up on his own, his attorney **Dominic Guerrini** said.

In a jury verdict slip given to U.S. District Judge Kim R. Gibson, jurors awarded \$3 million for the boy's past and future pain, suffering and lost earnings.

The rest was an estimation of more than 40 years of medical expenses he'd likely incur due to his extraordinary level of medical needs.

Figures written down by the jury estimated \$131,000 for 2017 and nearly \$408,000 in 2063.

“The jury properly determined that the health care providers responsible for causing this child’s catastrophic injuries should also be responsible for paying the significant costs associated with his medical care going forward,” Guerrini said.

That nearly \$14.5 million total represents more than one-third of the hospital’s \$42.9 million in total 2013 assets, according to the nonprofit’s Internal Revenue Service

Form 990 from that year, the most recent immediately available online Monday.

Guerrini and fellow attorney Mark Polin, who is also certified as an OB/GYN, represented the boy.

The boy’s family lived in western Pennsylvania when he was born in 2012, Guerrini said.

The lawsuit was filed in July 2014 and a pool of jurors was selected from Cambria, Somerset, Bedford, Blair and Clearfield counties to hear the case this month.

To Guerrini, it shows “jurors from traditionally conservative areas are willing to award substantial damages when substandard care has been proven to cause harm.”

Efforts to reach attorneys representing the defendants were unsuccessful Monday.

The hospital’s Duncansville attorney, John McIntyre, was out of his office Monday afternoon and unreachable for comment, law office staff said.

The two-week trial included seven days of testimony, Guerrini said.