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THURSDAY

Jury awards \$47 million in Johnstown medical malpractice case

By David Hurst

The family of a Texas child who sustained lasting scalp injuries days after she was born at Conemaugh Memorial Medical Center in 2012 was awarded more than \$47 million in a medical malpractice case Thursday.

Jurors awarded the total – an apparent Pennsylvania federal court record – following a three-day civil trial in which a judge ruled that longtime neonatal doctor John Chan was negligent when he wrapped the top of the child’s swollen head with a bandage after she was born. The move caused her sensitive scalp tissue to break down, leaving her partially bald and scarred.

Ian Harker and Corradina Baldacchino, parents of the girl, who is now 5, hugged and wept in court as jurors were individually asked if they agreed with the verdict.

One by one, all 12 responded, “Yes.”

The Houston couple exited court, wiping their eyes, and declined comment.

“We’re not interested in talking about it,” Harker said as he left.

Their Philadelphia-based attorneys said the result was the right one “in a special case for a special child.”

“This was a treatment no one in the United States ever performed ... and the judge recognized that,” said Attorney Dominic Guerrini, who handled the case alongside fellow Kline & Specter attorney Mark Polin.

Chan’s decision to wrap the bandage around the newborn’s head – and keep it in place for two days, despite the fact her head continued to swell and eventually break down – was “egregious” and substandard, Guerrini said.

Chan and Conemaugh Memorial Medical Center were both defendants in the case.

Their Hollidaysburg attorney, Michael Sosnowski, left the courtroom with Chan moments after the jury’s ruling was issued, and indicated there would be no immediate comment about the decision.

Sosnowski did not say if appeals might be explored.

“We’re not going to make any comments right now,” he said.

In the Johnstown region, the Western District Court’s largest previous medical malpractice award, \$14.5 million, was delivered in 2016 to a mother and child born at Penn Highlands Clearfield Hospital.

The child was born with cerebral palsy and other “catastrophic” disabilities because a doctor’s continued usage of a drug during labor blocked the child from receiving oxygen during contractions, jurors found at the time.

Part of the award was for millions in lost wages for the child over the span of her life because of her disabilities, jurors indicated at the time.

There were indications from attorneys that Thursday’s award is the largest ever in any of Pennsylvania’s federal courts.

The child in the Conemaugh case was described as happy, intelligent and otherwise healthy several times in court.

No award was requested for future lost wages by her attorneys, who indicated that factor did not apply during closing arguments.

But Guerrini pointed to more than \$3 million in future medical costs for her head and scalp injuries – based on federal life expectancy projections that she’ll live another 78 years.

And he reminded the jury that the child has had to undergo a series of medical appointments and procedures since that time, first to remove a layer of dead tissue from her head, and more recently, to reduce her scarring and level of baldness.

The girl was born in 2012, two years before Conemaugh was acquired by Duke LifePoint.

Baldacchino was visiting family in Carrolltown and went into labor on Christmas Eve and delivered the baby at Memorial Medical Center. The child was more than two months premature and weighed a little more than 3 pounds.

Chan has worked for Conemaugh Health System for more than two decades, providing care for newborns with special medical needs. He ordered the wrap after diagnosing the child had a hemorrhage, or bleed, that had shifted to the base of her head and appeared to be growing.

But attorneys for the child’s family pointed out that the move was not medically tested or proven – and deviated from the medical standard of care.

Experts brought into court said Chan likely misdiagnosed the bleed and maintained that his wrap caused the girl’s deformation by placing pressure on her young, swollen skin.

It blocked blood flow to her scalp, causing her tissue to break down.

The child will have to continue undergoing several years worth of scalp “tissue extending” procedures meant to narrow her degree of her hair loss, and allow her to be able to wear a wig or cover bald spots with extensions.

“And you should give her that. She needs that,” Sosnowski told jurors in court during his closing argument, suggesting they award several hundred thousand dollars worth of work to improve her appearance.

He showed jurors a Facebook photo of the young girl, prior to her latest corrective scalp surgery. In the image, she was smiling and she had a much fuller head of hair in pigtails, albeit with a noticeable bald patch at the top of her forehead.

Sosnowski reminded jurors they were the sole judges of what other compensation the young girl deserves, adding “money cannot buy back an unscarred skull or a perfect head of hair.”

Jurors apparently saw it differently, awarding more than \$43 million of the \$47 million sum for past and future pain and suffering.

Guerrini said she deserves every penny.

He said temporary balloon-like devices must be placed under her skin to promote new growth, giving her head an unnatural appearance that Guerrini said will likely lead to torment and bullying when she begins to attend school.

While the procedure does its job, she won’t be able to ride a bike, swim or roller skate, because her head will be more susceptible to trauma, he added.

“As she gets older ... we know it’s going to get much worse for her,” he said. “This case is about a heck of a lot more than a few million dollars worth of future medical costs,” he said. “As she gets older ... we know it’s going to get much worse for her.”

He recalled her parent’s testimony that they worried their daughter might not ever get a date for her senior prom, or even marry.

He showed the court children’s picture books her parents read her to let her know “it’s OK to be different” to keep her spirits lifted.

“Think about the rest of her life,” he told the jury.