

The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2011

PHILADELPHIA, TUESDAY, JUNE 18, 2013

An **ALM** Publication

Berks Co. Jury Awards \$1.7 Mil. in Infant Death Case

BY ZAC NEEDLES

Of the Legal staff

A Berks County jury has awarded \$1.7 million to the family of a three-month-old girl who died from a brain injury after a doctor failed to diagnose a bacterial meningitis infection.

On June 14, following a weeklong trial and three-and-a-half hours of deliberation, a jury voted 10-2 in favor of plaintiffs Anna and Charles Takacs, the parents of decedent Emma Takacs, and against defendants Reading Hospital and Medical Center and Dr. Duane D. Siberski.

In *Takacs v. Reading Hospital and Medical Center*, according to the plaintiffs' pretrial memorandum, three-month-old Emma Takacs was taken to the emergency room at the Reading Hospital and Medical Center with a 103-degree fever December 16, 2007.

The plaintiffs' pretrial memorandum alleged Siberski diagnosed the child with a middle ear infection and discharged her with a prescription for amoxicillin, without documenting which ear the infection was in or what he saw in the ear.

The following morning, Takacs was pale, cool to the touch and lethargic, according to the plaintiffs' memorandum.

She was rushed to her pediatrician's office and was then immediately transferred to Lehigh Valley Medical Center, where she was diagnosed with pneumococcal meningitis, hypoxic

brain injury and hydrocephalus, the plaintiffs' memorandum said.

Takacs remained hospitalized at Lehigh Valley Medical Center from December 19, 2007, until January 14, 2008, when she was discharged, according to the plaintiffs' memorandum.

About a year and eight months later, on September 15, 2009, Takacs died of respiratory complications related to the infection, the plaintiffs' memorandum said.

In the preceding months, according to the plaintiffs' memorandum, Takacs had to be taken to the hospital 10 times and was seen by various medical specialists.

The plaintiffs argued in their memorandum that the applicable standard of care required Siberski to order, at minimum, a blood count and urinalysis to rule out the possibility of bacteremia and meningitis, regardless of the presence of an ear infection.

Those test results would have been abnormal, prompting further blood testing and possibly a lumbar puncture, according to the plaintiffs' memorandum.

In addition, while Siberski discharged Takacs with the instruction that her parents bring her back for a follow-up "as needed," the standard of care required Siberski to schedule a follow-up within 24 to 48 hours of the first visit, the plaintiffs' memorandum said.

Dr. Danny Benjamin, the plaintiffs' infectious diseases expert, opined that

had Siberski complied with the standard of care, Takacs would have been diagnosed and treated for an infection before a catastrophic brain injury occurred, according to the plaintiffs' memorandum.

The defense, however, argued in its own pretrial memorandum that Siberski did not breach the standard of care and that nothing Siberski or Reading Hospital staff did or did not do worsened Takacs' condition.

According to the defense's pretrial memorandum, Dr. Eugene Shapiro, the defendants' pediatrics expert, said that Siberski could not have reasonably foreseen Takacs' "clinical course."

"At some point well after she was evaluated at Reading Hospital Medical Center, Emma Takacs developed pneumococcal bacteremia and meningitis due to a strain of pneumococcus that was resistant to amoxicillin, the treatment that was recommended and that was entirely appropriate for treatment of otitis media in an infant older than three months of age," Shapiro said in his expert report, according to the defense's pretrial memorandum.

Meanwhile, Dr. Gayle A. Galan, the defendants' emergency medicine expert, opined that Takacs did not show any signs of a serious bacterial infection, nor was she at risk for developing one, when she came to the emergency room December 16, 2007.

The plaintiffs' economics expert, David Hopkins, estimated Takacs' future lost earnings at between about \$441,000 and \$554,000 if she had

gone on to obtain a high school diploma and between \$569,000 and \$1.2 million if she received a higher level of education.

Ultimately, the jury awarded the plaintiffs \$1,720,000 — \$860,000 for Takacs' future lost earnings and \$860,000 for her pain and suffering.

Counsel for the plaintiffs, David Inscho of Kline & Specter in Philadelphia, called the verdict "an incredible result for the family in what is considered an extremely conservative county for medical malpractice cases."

Counsel for the defense, Edwin L. Stock of Roland Stock in Reading, Pa., could not be reached for comment.