

## Pa. Hospital Can't Upend \$8M C-Section Injury Verdict

By **Mike Curley**

Law360 (December 9, 2024, 2:30 PM EST) -- A Pennsylvania appeals court won't strip an \$8 million verdict from a couple who alleged that a surgeon botched a cesarean section during the birth of their child, rejecting the hospital's argument that the evidence didn't support a finding of negligence.

In an **opinion** filed Friday, the panel affirmed a verdict in favor of Laura Rongione and her husband against Abington Memorial Hospital, saying the hospital's first challenge to the verdict speaks to the weight of the evidence and the jury was free to decide which side to credit.

According to the opinion, the hospital argued that Rongione's expert, Dr. John Elliott, didn't establish the standard of care required of Dr. Kanli Jiang, who delivered the child, to inspect Rongione's uterine artery following the procedure, while Jiang testified that she did so in "every single case."

The hospital had also argued that Elliott failed to establish that Jiang didn't, based on the lack of a notation in the post-surgery notes, or that a second surgery to address Rongione's internal bleeding took too long to begin.

The panel wrote, however, that Elliott properly testified on the standard of care, and the hospital's arguments on causation go to the weight of the evidence, a question that was properly before the jury.

In addition, the panel wrote that Jiang testified she could not recall "specifically" that she inspected the uterine artery, and the jury was further allowed to weigh a report following the second operation saying the artery was "transected completely" as well as expert witness testimony interpreting the reports and other evidence.

According to the complaint, Jiang performed a C-section when Rongione experienced complications during the delivery of her child but did not properly inspect Rongione despite the complications.

Rongione alleged that within hours, her vitals took a dive, resulting in two cardiac arrests, and she required surgical intervention and an emergency hysterectomy.

A jury in June 2023 **found Abington liable** for Rongione's injuries following the December 2013 birth, awarding her and her husband \$5.5 million for pain and suffering and \$2.5 million for loss of society, comfort and companionship.

In its appeal, the hospital had also argued that the court was wrong to deny its bid to instruct the jury on comparative negligence based on Rongione's alleged refusal to push during the delivery. According to the opinion, however, the hospital's expert, Dr. Owen Montgomery, did not testify with sufficient certainty that if Rongione had pushed, she wouldn't have needed a C-section and her artery would not have ruptured, particularly as he had also opined that her artery spontaneously ruptured some time after the C-section.

The hospital had also challenged the admission of testimony from Rongione's husband and uncle, who said that Dr. Robert Michaelson, one of the surgeons, said, "We messed up" following the second surgery. While hearsay is typically not admissible, this was admitted under a rule allowing admissions by a party opponent, and the hospital argued that Rongione did not establish Michaelson was an agent of Abington Memorial, as opposed to Abington Primary Women's Healthcare Group.

The panel, however, wrote that there was extensive argument at trial about whether Michaelson was also a hospital employee regardless of whether he was a partner of the women's healthcare group.

According to the opinion, Jiang testified that the healthcare group is "owned by Abington," which both parties used to refer to the hospital, and that Michaelson was also an employee of Abington at the time.

Finally, the panel rejected the hospital's claim that the trial court wrongly precluded Montgomery from testifying about the blood flow rate in a uterine artery to support its argument that the amount of blood found during the second surgery was too little for the artery to have been cut during the C-section.

According to the opinion, while Montgomery was not allowed to testify about the specific rate, he was still able to testify about other facts regarding blood flow and uterine arteries, and testify that the amount of blood found in Rongione would have been much higher if the artery was cut during the delivery.

In addition, another expert did testify about the blood flow rate that Montgomery was precluded from addressing, so there was no prejudice, the panel wrote.

An attorney for the hospital declined to comment Monday.

"We are heartened that the Superior Court quickly affirmed the judgment in Ms. Rongione's favor with a strong opinion supporting the trial court's decisions and the jury verdict," Charles Lyman Becker of Kline & Specter PC, representing the Rongiones, said in a statement Monday. "We are confident that Ms. Rongione will be fully compensated and Abington rendered fully accountable for its negligence by the end of the appellate process."

Judges Megan McCarthy King and Timika Lane and Senior Judge James Gardner Colins served on the panel.

The hospital is represented by John Jacob Hare of Marshall Dennehey PC, Benjamin A. Post and Chloe Lorin Mannings of Post & Post LLC and Andrew Philip Stafford and Maureen Murphy McBride of Lamb McErlane PC.

The Rongiones are represented by Thomas R. Kline, Charles Lyman Becker, Lisa Susan Dagostino, Ruxandra Maniu Laidacker and Elia Robertson of Kline & Specter PC.

The case is Rongione et al. v. Abington Memorial Hospital, case number 2902 EDA 2023, in the Superior Court of Pennsylvania.

--Additional reporting by Jonathan Capriel. Editing by Alyssa Miller.