

Penn Hospital Says \$200M Judgment Imperils Local Care

By **P.J. D'Annunzio**

Law360 (February 5, 2025, 6:19 PM EST) -- The Hospital of the University of Pennsylvania implored the Pennsylvania Superior Court on Wednesday to upend a purportedly historic \$200 million medical malpractice judgment, arguing that the jury's award in the birth injury case was greater than the economic output of some nations and could seriously impact the hospital's operations.

The hospital's plea to the three-judge panel came in the case of Dajah Hagans, whose son suffers from cerebral palsy, severe cognitive impairments and other maladies that she alleged were caused by a botched delivery by hospital staff. The hospital, or HUP as it is commonly known, has maintained that Hagans' son's injuries were due to a prebirth infection it was not responsible for.

"This is the largest medical malpractice verdict in the history of Pennsylvania," Lamb McErlane PC attorney Maureen McBride said in her argument for the hospital during the Superior Court session in Philadelphia.

"The judgment is over \$200 million, which is greater than the GDP of some small countries," she said.

A Philadelphia jury originally awarded Hagans **\$183 million**. That number increased because of the addition of over \$23 million in delay damages, attorneys at the oral argument session noted. Delay damages are a form of prejudgment interest.

One of the points McBride made was that the hospital was not allowed to explore whether the individual defendants, a team of doctors and one nurse, were more liable for negligence than others.

However, Judge Victor Stabile said that it wouldn't have changed anything because of vicarious liability — if one of the hospital staff was negligent then the institution was responsible.

Additionally, McBride said the verdict slip was "fatally flawed" because it allowed the jury to consider both if HUP caused the harm to Hagans' child "and/or" increased the risk of harm.

"They are not interchangeable," she said.

McBride also called out the yearly allotments of \$2 million to Hagans' son as excessive.

Judge Stabile remarked that "for a child that is mostly brain-dead ... to award that child \$2 million a year doesn't seem to shock the conscience."

But McBride said that the award was part of a trend of ballooning plaintiffs' verdicts in cases nationally and that something had to be done before the healthcare system was seriously diminished.

"Even the most well-funded institution cannot sustain this type of verdict. This is an astronomical amount," she said. "Ten years ago if this were in a class action people would be appalled. This is for one person."

Charles Becker of Kline & Specter PC argued for Hagans and said the amount was justifiable given the injuries Hagans' child suffered and continues to suffer from.

Judge Stabile returned to McBride's argument that the jury never got to decide if the individual defendants were liable, noting that a nurse couldn't be held liable for medical decisions made by a doctor.

Becker said the jury's verdict against HUP amounted to a "yes" vote on whether each of the individual defendants was liable.

"Penn has stipulated that each one of these individuals was its agent," Becker said.

Prior to HUP's argument, an attorney for the individual defendants asked the court to declare that they couldn't be retried in the event the case was sent back for a new trial. The judges seemed to greet this argument with skepticism.

Karyn Rienzi of Post & Schell PC argued that her clients were left in a "legal limbo" because there was no verdict against them at trial, but they faced the possibility of liability if a new trial were ordered.

"We should be dismissed with prejudice from this action," she told the panel, noting, "There really isn't any case law or precedent as for the position my clients are in right now."

Judge Stabile said the verdict was the same as a dismissal with prejudice, to which Rienzi agreed — but she said her clients still needed a sense of finality.

"You're asking us to get you out of a case you're not in yet," Judge Maria McLaughlin said.

"You want us to do more than the jury did on the verdict sheet in this case," Judge Stabile added, asking Rienzi how her clients were aggrieved.

Rienzi pointed again to her clients' unique circumstances, but apparently unsatisfied, Judge Stabile said, "What is so unique about these circumstances? It's a vicarious liability case."

A Philadelphia jury awarded its verdict in favor of Hagans in April 2023. Hagans alleged in her lawsuit that the hospital knew she had a uterine infection, but its staff failed to perform a cesarean section in time.

HUP consistently denied liability, arguing that the infection did not warrant an immediate C-section.

Judges Victor Stabile, Tamika Lane and Maria McLaughlin sat on the panel for the Pennsylvania Superior Court.

The defendants are represented by Joe H. Tucker of Tucker Law Group LLC, James A. Young and Richard S. Margulies of Burns White LLC, Maureen S. McBride and Andrew P. Stafford of Lamb McErlane PC and Kathleen M. Chancler and Karyn D. Rienzi of Post & Schell PC.

The plaintiff is represented by Charles Becker and Ruxandra M. Laidacker of Kline & Specter PC and E. Merritt Lentz of Gilman & Bedigian LLC.

The cases are Hagans v. Hospital of the University of Pennsylvania, case numbers 766 EDA 2024 and 536 EDA 2024, in the Superior Court of Pennsylvania.

--Editing by Rich Mills.