

MEDICAL MALPRACTICE

Doc overlooked dislocation of infant's hip, lawsuit alleged

Settlement: \$2,300,000

Gianna Marie Daddato, an Infant by Her Father and Natural Guardian, Frank Daddato, and Frank Daddato, Individually v. Joel I. Stakofsky, M.D., No. 150780/13

Court: Richmond Supreme

Judge: Charles M. Troia

Date: 4/26/2016

Plaintiffs' Attorney: Judith A. Livingston, Kramer, Dillof, Livingston & Moore

Defense Attorneys: Carl A. Formicola, Lewis Johs Avallone Aviles, LLP

Facts & Allegations: On Dec. 17, 2011, plaintiff Gianna Marie Daddato, a 1-day-old girl, was examined by her pediatrician, Dr. Joel Stakofsky. The doctor compiled a report that did not note an abnormality.

During the ensuing four days, Stakofsky performed several reexaminations of Gianna. On Dec. 21, 2011, he noted that Gianna exhibited metatarsus adductus: inward angulation of the forefeet. Stakofsky prescribed stretching of Gianna's feet, and he suggested that a reevaluation would be performed after two months had passed.

During the ensuing four months, Stakofsky performed a total of three follow-up examinations of Gianna. The third examination was performed on April 17, 2012. During that examination, Stakofsky noted that Gianna's legs were of uneven length. Gianna was referred to an orthopedist, who determined that Gianna

was suffering a congenital dislocation of the left hip. The hip had completely dislodged from the socket. Corrective surgery was immediately performed, but Gianna's father, Frank Daddato, claimed that Gianna will require additional surgeries that could have been averted via earlier detection of her dislocation.

Frank Daddato, acting individually and as Gianna's father and natural guardian, sued Stakofsky. The plaintiffs alleged that Stakofsky failed to timely diagnose the dislocated hip. The plaintiffs further alleged that Stakofsky's failure constituted malpractice.

Plaintiffs' counsel contended that Gianna's deformity should have been diagnosed during the first three days of her life, and she claimed that prompt intervention would have facilitated a complete resolution of the problem. She claimed that the infant's weight was unusually great, that her legs were of uneven length, and that her thighs bore unequally sized folds of fat, and she contended that those symptoms suggested a dislocation of a hip. Plaintiffs' counsel also contended that metatarsus adductus should have suggested a dislocation of a hip.

Defense counsel contended that Gianna's dislocation was timely diagnosed. He claimed that the child had not previously exhibited a symptom that suggested a dislocation. He contended that the dislocation gradually occurred. He also contended that Stakofsky performed all of the necessary examinations that would have detected a dislocation.

Injuries/Damages: *hip; pelvis*

Gianna suffered a dislocation of her left hip. The dislocation was discovered during her fourth month of life, and she immediately underwent two corrective surgeries. A cast was applied to her hips,

legs and torso. After four months had passed, the cast was replaced by a harness that secured Gianna's hips. In 2013, Gianna underwent follow-up surgery that involved cutting and relocation of her pelvis.

Plaintiffs' counsel claimed that Gianna will require serial replacement of her left hip. She claimed that the first replacement must be performed during Gianna's teens. She also claimed that arthritis is a likely residual effect of Gianna's condition, and she contended that arthritis would produce a limp.

Gianna's father sought recovery of Gianna's future medical expenses, damages for Gianna's past pain and suffering, and damages for Gianna's future pain and suffering. He also presented a derivative claim.

Result: After the trial's fourth day, the parties negotiated a settlement. Stakofsky's insurer agreed to pay \$2.3 million.

Insurer: Physicians' Reciprocal Insurers

Editor's Note: This report is based on information that was provided by plaintiffs' counsel. Additional information was gleaned from court documents. Defense counsel did not respond to the reporter's phone calls.

—Jack Deming