

MEDICAL MALPRACTICE

Childbirth Medical Malpractice OB-GYN

Vacuum extraction blamed for newborn's nerve damage

Verdict (P) \$1,540,000

Case Dawn Minton and Roy Minton, as next friends of Ryan Minton, a minor, plaintiffs, v. Lisa Savage, M.D., and Lisa Savage, M.D., P.A., defendants, No.

Court Travis County District Court, 261st, TX

Judge Lora Livingston

Date 9/9/2004

Plaintiff Attorney(s) Spencer G. **Markle**, Morgan & Weisbrod, Bellaire, TX

Defense Attorney(s) Michael S. Hull, Hull, Henricks & MacRae, Austin, TX

Keith Ingram, Hull, Henricks & MacRae, Austin, TX

Facts & Allegations On Sept. 21, 1999, plaintiff Ryan Minton was delivered at St. David's Hospital by Lisa Savage M.D. Savage encountered shoulder dystocia (long descent and slow birth of the face and chin, where the head sticks tightly to the perineum) and a vacuum extractor to facilitate delivery

records from the delivery indicated that Savage accompanied the vacuum extraction with the McRoberts' position and supra pubic pressure to resolve the shoulder dystocia. Ryan was born with brachial plexus palsy on his right side resulting from three torn cervical nerves he sustained during the delivery.

Ryan's parents sued Savage and her practice, Lisa Savage M.D. P.C., Austin, on his behalf for medical malpractice. The plaintiff claimed that Savage did not perform the McRoberts procedure. The plaintiff further claimed that she improperly ordered or allowed fundal pressure and that she applied excessive downward lateral traction to Ryan's head.

The defense contended that brachial plexus injuries can occur in utero and even when all procedures are properly performed. Savage claimed she performed the delivery within the standard of care.

Injuries/Damages brachial plexus traction injury; neuroma

Ryan underwent two surgeries to attempt to mitigate the damage caused at birth. He will require two future muscle and tendon surgeries and sought damages for future medical expenses in the amount of \$239,000.

Ryan will likely have difficulty working as an adult and sought damages in the amount of \$1.7 million for lost earning capacity. The plaintiff further claimed that Ryan's arm is disfigured and that he will encounter difficulty in performing daily life activities. He sought damages for pain and suffering and disfigurement.

Result The jury found for the plaintiff and awarded him \$1,540,000 in damages.

Ryan Minton \$115,000 future medical cost

\$15,000 past physical impairment

\$50,000 future physical impairment

\$850,000 future lost earnings

\$35,000 past pain and suffering

\$450,000 future pain and suffering

\$25,000 future disfigurement

\$1,540,000

Demand \$300,000 (policy limits)

Offer \$125,000

Insurer(s) TMLT for both defendants

Trial Details Trial Length: 5 days

Jury Deliberations: 2 days

Plaintiff Expert(s) John P. Laurent, M.D., pediatric neurosurgery, Houston, TX

Rodney Isom, Ph.D., life care planning, Denton, TX

Defense Expert(s) Karen Swenson, M.D., ob-gyn -- see also gynecology, Austin, TX

Andrew Vadasz, M.D., pediatric neurology, Longview, TX

Post-Trial During deliberations the parties entered into a high/low settlement agreement for \$750,000 and \$300,000.

Editor's Note Defense counsel did not respond to either a faxed draft of this report or a phone call.

Peter Scoolidge