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Dep.
low performance
evidence
of chronic anaphi

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3

4 ENRIQUE GARCIA, JR., A MINOR BY)
5 AND THROUGH HIS GUARDIAN AD LITEM)
6 ELIZABETH GARCIA, ELIZABETH)
7 GARCIA, ENRIQUE GARCIA, SR.,)

8 Plaintiffs,)

9 vs.)

Case No. SC066266

10 ST. JOHN'S HOSPITAL AND HEALTH)
11 CENTER, JOHN DAVID EDWARDS, JR.,)
12 M.D., ADA McCLOUD, R.N., and)
13 DOES 1 TO 30, inclusive,)

14 Defendants.)
15)
16)
17)
18)
19)
20)
21)
22)

23 DEPOSITION OF MARVIN D. NELSON, JR., M.D.

24 Friday, April 4, 2003

25 Los Angeles, California

Reported by:

Debby Green, RMR

CSR No. 2791

1 Deposition of MARVIN D. NELSON, JR., M.D.,
2 taken on behalf of the Plaintiff at Childrens Hospital
3 Los Angeles, 4650 Sunset Boulevard, Room 381,
4 Los Angeles, California 90503, commencing at
5 1:31 p.m., Friday, April 4, 2003 before Debby Green,
6 RMR, CSR No. 2791, Certified Shorthand Reporter for
7 the State of California.

8

9 APPEARANCES OF COUNSEL:

10 FOR PLAINTIFF:

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20

21 ALSO PRESENT: Capricci Bilandal

22

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25

Porter Sipes & Associates (310) 787-4499

1 I-N-D-E-X
2
3 WITNESS EXAMINATION BY PAGE
4 MARVIN D. NELSON, JR., M.D. MR. MICHELS 5

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8 EXHIBITS:
9 (None)

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14 INFORMATION TO BE PROVIDED:
15 (None)

16
17 QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER
18 (None)

1 FRIDAY, APRIL 4, 2003; LOS ANGELES, CALIFORNIA

2 1:31 P.M.

3
4 MARVIN D. NELSON, JR., M.D.,
5 called as a witness by the Plaintiff having
6 been first duly sworn, was examined and
7 testified as follows:

8 THE REPORTER: Raise your right hand.

9 You do solemnly swear that the testimony you
10 are about to give in the following deposition shall be
11 the truth, the whole truth, and nothing but the truth,
12 so help you God.

13 THE WITNESS: I do.

14
15 EXAMINATION

16 BY MR. MICHELS:

17 Q. Okay. Doctor, let's tell me what you reviewed
18 here.

19 A. I was sent the medical records involved in --
20 from St. John's Health Center.

21 Q. The medical records of the baby, I gather?

22 A. Of the baby.

23 Q. Okay. And looks like a deposition of --

24 A. Robert Zimmerman.

25 Q. Okay. And what else?

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5

1 A. I have a series of imaging studies, an M.R.I.
2 dated 10 Oct- -- no -- 9 October, 2000. I think this is
3 a series of chest x-rays and some other plain films on
4 the baby; M.R.I. of the brain from 7 November, 2000.
5 Here was an M.R.I. of the abdomen from October 9, 2000.
6 And there were just a series of plain films and a renal
7 ultrasound of various dates that were sent, too.
8 Q. And are these your sole notes on the case?
9 A. Yes.
10 Q. It was just a listing of the imaging --
11 A. Yes.
12 Q. -- studies? Okay. All right.
13 You have a C.V. somewhere you can give us
14 before we go? Have you got one right here?
15 And -- and looks like you pulled out or
16 somebody pulled out for you the imaging reports looks
17 like --
18 A. I did that for the ones I could find.
19 Q. -- the sonogram. And it looks like one -- no
20 both -- one M.R. -- right? Let me see.
21 A. Yeah, I believe so.
22 Q. Okay. Okay. Why don't you read the -- read
23 the first M.R. for me.
24 A. The first M.R. was from -- well, first of all,
25 there was an ultrasound that was done on the 6th of

1 October 2000 that --
2 Q. Do you have it?
3 A. *I don't have the films.*
4 Q. Okay.
5 A. There is only a report that was interpreted by
6 the radiologist as being normal.
7 Q. Okay.
8 A. Although I've never seen it.
9 Q. Okay.
10 A. Then there was an M.R.I. of the brain that was
11 done on the 6th of October that was done at roughly 3:00
12 o'clock in the afternoon that basically shows a little
13 bit of increased signal in the basal ganglia and
14 thalamus region on the T-1 weighted images. And that's
15 about all this one showed.
16 Q. Um-hum.
17 A. A little scalp hematoma of no consequence.
18 Q. Okay. How about the next film?
19 A. And then the next one is the M.R.I. of 7
20 November, 2000 which basically shows the same thing,
21 only the findings are a little bit more -- they're
22 *increased in the intensity of the signal abnormalities*
23 *in the basal ganglia and thalami, the ventricles have*
24 *increased in size somewhat; but, other than that, those*
25 *are the major findings.*

1 No cortical vascular border zone lesions are
2 apparent. These are all deep nuclear findings.
3 It suggests because they're bilateral and
4 symmetrical that this child suffered a low-perfusion
5 event.
6 And from the appearance from the first and the
7 second, it looks like, I would say, that they're
8 anywhere from one to three days old.
9 Q. One to three days prior to --
10 A. Prior to the first imaging study.
11 Q. Okay. Is that as close as you can pin it down?
12 A. That's the best I can do.
13 Q. Okay. And the mechanism of injury you say is a
14 low-perfusion event?
15 A. Right.
16 Q. What would be the types of low-perfusion events
17 you'd anticipate?
18 A. Anything that can drop the cardiac output,
19 septic shock, torn placenta, knot in the cord, torn
20 cord, anything along those lines --
21 Q. Okay.
22 A. -- they would all look the same.
23 Q. Okay. Is there any way for you to say whether
24 these images are consistent with a cytokine mediated
25 injury to the brain?

1 A. No.
2 Q. What imaging do you anticipate in term babies
3 who have a cytokine mediated injury to the brain?
4 A. Well, I look for focal necrosis in the white
5 matter.
6 Q. Okay. Did you see that here?
7 A. No.
8 Q. Have you studied the relationship of
9 chorioamnionitis to neurologic damage to babies and
10 the -- the imaging correlates to it?
11 A. Yes. To some degree.
12 Q. Okay. And is there anything in these --
13 what -- what do you anticipate an M.R. in a term baby
14 would look like if the brain injury was caused by
15 chorioamnionitis? Caused by the consequences of
16 chorioamnionitis.
17 A. Well, I don't think that I could say there's
18 any one specific thing that -- that could happen.
19 There's -- there's so many other physiologic factors
20 involved that I don't think that I could say one
21 specific pattern of injury would be apparent.
22 Q. Okay. Are there studies that indicate what
23 types of injuries you would anticipate in a term baby
24 whose injury is caused secondary to maternal -- the
25 consequences of maternal chorioamnionitis?

1 A. Well, I -- I have seen studies published that
2 talk about that.
3 Q. Um-hum.
4 A. But I'm not sure that they're all-inclusive.
5 Q. Okay. Is there any way that you can say that
6 these images are consistent with an injury caused by the
7 consequences of maternal chorioamnionitis?
8 A. No. All I can say is what I've already stated,
9 is that they're secondary to what looks like a drop in
10 the cardiac output in the child.
11 Q. Okay.
12 A. From whatever caused that.
13 Q. Okay. And you read Dr. Zimmerman's depo?
14 A. Yes, I have.
15 Q. I imagine you know Dr. Zimmerman?
16 A. Yes, I do.
17 Q. Okay. And who is he?
18 A. He's a pediatric neuroradiologist who works at
19 CHOP, Children's Hospital of Philadelphia.
20 Q. He's a respected pediatric neuroradiologist?
21 A. Yes.
22 Q. Have you co-published with him at all?
23 A. Hm, I think we might have been on one contrast
24 study that was a multi-center study together, but I
25 think that's about the only thing.

1 Q. Okay. Would the injury that you see on the --
2 on these films be consistent with a 20 minutes of
3 *sustained bradycardia that occurred just before delivery*
4 on the -- the 5th?

5 A. I have no way to know that yes or no.

6 Q. You don't -- no opinion one way or the other?

7 A. I have no opinion on that.

8 Q. Okay. You -- is -- is a sustained bradycardia
9 of 20 minutes something that you would call a
10 low-perfusion event?

11 A. Well, again, there's no --

12 MS. DeMARCO: Let me just object that that's an
13 incomplete hypothetical.

14 Go ahead. Sorry.

15 THE WITNESS: Sustained bradycardia can cause a low
16 cardiac output.

17 Q. BY MR. MICHELS: Um-hum.

18 A. But exactly how long it takes is -- I don't
19 think anyone really knows that answer. And I --

20 Q. How long it takes for --

21 A. Right. Before it becomes significant enough to
22 *injure brain tissue. These babies go through different*
23 reactive responses to this where they clamp down on
24 their blood supply to kidneys and other organs to
25 maintain their -- their --

1 Q. Um-hum.
2 A. -- perfusion of their brain and their heart.
3 Q. Um-hum.
4 A. And so even though they may be bradycardic,
5 there still could be perfusion to the brain, so there's
6 no way to know exactly how long it takes.
7 Q. Okay. So you can't rule it in, you can't rule
8 it out as an event that might have caused this injury?
9 A. Well, again, my opinion is what I've already
10 stated, and I -- and I don't -- there was a drop in -- I
11 think there was a drop in cardiac output in this child
12 that injured this child's brain, but I have no idea how
13 long the cardiac output was down or to what level or
14 anything else.
15 Q. Um-hum. Okay. Okay.
16 A. Or what caused the drop in cardiac output.
17 Q. Okay. And what do you make of the sonogram
18 report?
19 A. Well, it was read by the radiologist as being
20 normal. But that doesn't necessarily mean it was
21 normal.
22 Q. Um-hum. Would that -- I think that was done at
23 about 20 hours of life. I don't know if it says on
24 there. Does it? Does that say? I think I figured that
25 out. Well, it's transcribed at 1612. Should be 24

1 hours of life, but I think we figured it out it was 20
2 hours. What -- assuming that it is correctly read,
3 what -- what does that tell you about timing of injury?
4 A. It would mean that the injury was probably
5 closer to the time of birth than prior to it.
6 Q. Okay. Are you going to say -- are you going to
7 testify about anything else in this case?
8 A. No.
9 Q. Have -- is there some evolution or progress
10 between the 10/6 film and the 11/7 film?
11 A. Yes. I think the ventricle is opening up, it's
12 showing that your -- some of the edema is resolving.
13 Q. And the -- you said there's increased intensity
14 compared to the earlier film. Is that --
15 A. That doesn't help timing any better, though,
16 than that -- than what I stated before.
17 Q. Okay. But I mean is there a -- is there a
18 progression in the b.g. and thalami damage that you're
19 seeing between the two films?
20 A. Well, I think we're just seeing this -- the --
21 the original injury just manifesting itself and
22 resolving. I don't think there's an extension of the
23 injury, I think it's one injury that's evolving in time.
24 Q. And what changes -- what causes the intensity
25 changes in the second film compared to the first film?

1 A. It's just the way the body is reacting to the
2 injury.
3 Q. So the injury occurs and then you see at point
4 one, that first film, you see this type of change on the
5 film and then that same injury starts to show up later
6 with a -- a more intense signal?
7 A. Yes.
8 Q. Okay. And in the -- in the first film, the
9 10/6 film, there -- is there any evidence of edema or
10 edema on that film?
11 A. I don't think I can say that yes or no. There
12 may be. But I don't -- I can't say yes or no.
13 Q. Okay. And in the second film, you're seeing
14 some evidence of the resolution of edema?
15 A. Well, the ventricle is opening up. There's --
16 Q. Right.
17 A. -- there's -- are showing a big change between
18 the two. The problem is it's absolutely normal to have
19 small ventricles after birth --
20 Q. Um-hum.
21 A. -- as a normal event.
22 Q. Um-hum.
23 A. You also could have small ventricles from
24 some -- from some swelling in the brain.
25 Q. You can't tell?

1 A. And you just can't tell the difference between
2 the two.

3 Q. Okay. Does -- does a mother with subclinical
4 chorioamnionitis -- is -- is that infant at greater risk
5 for a neurologic injury caused by some sort of
6 low-perfusion event?

7 A. I don't know the answer to that question.

8 Q. Okay. Have I gotten all your opinions?

9 A. I think you have.

10 Q. What do I owe you?

11 A. Well, for one-hour minimum, \$500.00.

12 Q. Okay. Could you give me a card and write down
13 whatever I need.

14 And can you tell me how many hours you spent on
15 the case or less than hours?

16 A. An hour and a half.

17 MR. MICHELS: I need a tax I.D.

18 THE WITNESS: Are we off the record?

19 MR. MICHELS: Sure.

20 (At 1:46 p.m. the deposition was concluded.)

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DECLARATION

I hereby declare I am the deponent in the
within matter; that I have read the foregoing deposition
and know the contents thereof, and I declare that the
same is true of my knowledge except as to the matters
which are therein stated upon my information or belief,
and as to those matters, I believe it to be true.

I declare under the penalties of perjury of the
State of California that the foregoing is true and
correct.

Executed this day of ,
2003 at , California.

Marvin D. Nelson, Jr., M.D.

1 REPORTER'S CERTIFICATE

2 STATE OF CALIFORNIA)
3 COUNTY OF ^{SS}LOS ANGELES)

4 I, Debby Green, a Certified Shorthand Reporter
5 in and for the State of California, do hereby certify:

6 That, prior to being examined, the witness
7 named in the foregoing deposition was duly sworn to
8 testify the truth, the whole truth, and nothing but the
9 truth;

10 That said deposition was taken by me at the
11 time and place herein set forth, and was taken down by
12 me in shorthand and thereafter transcribed utilizing
13 computer-assisted transcription under my direction and
14 supervision;

15 I further certify that I am neither counsel
16 for, nor related to, any party to said action, nor in
17 anywise interested in the outcome thereof.

18 In witness whereof, I hereunto subscribe my
19 name this 5th day of April, 2003.

20

21

Debby Green, CSR No. 2791

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