

Type of Action - Medical Malpractice, Neonatal Transfusion-acquired HIV-Infection

Name of Case - *Confidential*

Awarded or Settled - Settled

Settlement - \$3,000,000.00

Attorney for Plaintiff - William E. Artz, Esq., Arlington, VA

CASE SUMMARY: The Infant Plaintiff, now aged fifteen, suffers from a neonatal transfusion-acquired HIV-infection which he contracted from a transfusion administered to him on April 21, 1984, during his intensive care nursery stay at Defendant hospital.

The Infant Plaintiff was born on April 17, 1984, at thirty-eight weeks, by a repeat elective cesarean section. The Plaintiff alleges that upon admission to Defendant hospital, the Infant Plaintiff's mother advised hospital personnel/health care providers that if the occasion arose necessitating a transfusion to either her or the baby, that it be from blood donated by any one of the several family members that were present and willing to be donors and whose blood was compatible with the Infant Plaintiff's. The admission records noted that the mother did not want any blood transfusion from outside the family.

Approximately one and one-half hours following delivery, the Infant Plaintiff developed tachypnea, secondary to possible amniotic fluid aspiration and was transferred from the regular nursery to the Neonatal Intensive Care Nursery of Defendant hospital. On April 17 and 19, 1984, the Infant Plaintiff received two separate transfusions of fresh frozen plasma that had not been donated by family members.

On April 19, 1984, the mother expressed her concern to one of the physicians over blood transfusions from outside the family and advised of the availability of several family members to donate blood should the need arise in the future. The parents were advised that it was unlikely

that further transfusions would be necessary, but that they would be notified. The physician spoke to the director of the blood bank at Defendant hospital about the possibility of family directed donations and was advised that it would be extremely difficult to accomplish until the weekend was over. Between the hours of 11:45 a.m. and 2:15 p.m., on Saturday, April 21st, the Infant Plaintiff was administered 34 cc of packed red blood cells from the conventional blood transfusion supply.

The implicated unit of blood responsible for the Infant Plaintiff's HIV-infection, which he received on the third transfusion of April 21, 1984, was subsequently identified by the blood supplier in an August 9, 1990 letter to Defendant Hospital's blood bank director. It is interesting to note that this unit of whole blood was drawn from the infected donor on April 16, 1984, and was processed by the blood supplier and sent to the Defendant hospital that same day. It was then typed and cross-matched against the Infant Plaintiff by hospital personnel on the following day, April 17th, and was held until April 21st, when it was transfused.

Plaintiffs allege that the Defendant hospital was negligent in that (1) there was no clear medical indication to transfuse the Infant Plaintiff on April 21, 1984; (2) that even assuming, *arguendo*, that the transfusion was necessary, there was absolutely no valid reason not to honor the parents' request that it be with blood donated from the available family members; and (3) the infant plaintiff's anemia was the result of the Defendant's excessive blood draws (over ninety (90) blood draws in a seventy-two (72) hour period). Defendant alleged that the April 21, 1984, transfusion was medically necessary, given the infant's overall medical condition, including falling hematocrit and slow capillary refill time. Defendant further alleged that it adhered to the standard of care in ordering blood tests and arterial blood gases for the infant and that it would have been a violation of the standard of care to not regularly monitor arterial blood gases in this infant.

Defendant also alleged that there was no medical evidence to support the position that a directed donation would be safer and in fact there was scientific evidence that suggested that transfusing the infant with family blood carried additional risks such as immunological reactions or graft versus host disease.

The parents of the Infant Plaintiff did not learn of his HIV status until October 1994, when he was hospitalized for pneumonia and an enlargement of his thymus gland. During his hospitalization, he underwent a thymectomy and biopsy of lung and lymph node tissues characterized as a lymphoproliferative lesion. He carries a current diagnosis of AIDS, based upon his lymphoproliferative thymic lesion and DC4 count in the severe immunosuppressed range. The Infant Plaintiff carries a life expectancy of no more than three years.