



Neubert, Pepe & Monteith, P.C. Obtains Defense Verdict in Groundbreaking Wrongful Fetal Termination Case

Attorneys Eric Stockman and Adam Maiocco obtained a defense verdict on behalf of Dr. Tracy Shevell, a maternal fetal medicine specialist, in the case of Meleney-Distassio v. Weinstein et al. In Meleney – Distassio, plaintiff had been diagnosed during her pregnancy with a fetus with bilateral club feet, which can be an indication of genetic disorders. In particular, when a genetic defect is present in a fetus with club feet, it is most often a chromosomal abnormality called Trisomy 18, which usually results in the death of the fetus. At the behest of co-defendant Dr. Weinstein, Dr. Shevell took over plaintiff's care, first confirming the presence of club feet with a 3D fetal ultrasound, then performing an amniocentesis to detect other potential abnormalities. The initial set of test results came back positive for Trisomy 18. Plaintiff claimed that Dr. Shevell and Dr. Weinstein negligently relied on these results and advised her to terminate the pregnancy "as soon as possible." Dr. Shevell denied giving her that advice. Plaintiff terminated a mere 24 hours after the information was conveyed to her. After the termination, the lab revealed that it had made an error, invalidating the test results and determining that the fetus did not have any genetic abnormality. For some unknown reason, the lab was not sued by plaintiffs.

The case was noteworthy, not only for the sad and shocking fact of a lab error, but also because Judge Charles Lee, the trial judge in Stamford Superior Court, allowed plaintiff's husband to make a direct claim for damages resulting from the termination although he was not a patient of either defendant. During the five-week trial, both plaintiffs claimed that the defendant physicians did not tell them that the test results were "preliminary" and that had they known that fact, Ms. Meleney would not have terminated the pregnancy. Defendant's expert, the renowned obstetrician/maternal fetal medicine specialist Dr. Richard Berkowitz, educated the jury on the highly reliable findings of the initial amnio results, which are 99.99992% accurate. He testified that Dr. Shevell met and exceeded the standard of care in all aspects of her treatment of plaintiff including telling the patient that the test by its very nature was preliminary. The

jury agreed, finding that Dr. Shevell had appropriately counseled the patient on the meaning and reliability of the testing.

The jury deliberated for two hours before rendering a complete defense verdict.

Contact Us

Please contact Eric J. Stockman or Adam V. Maiocco if you have any questions or would like further guidance about any issues raised in this advisory. Contact us at 203.821.2000 or www.npmlaw.com.



Eric J. Stockman

Eric J. Stockman specializes in the litigation of complex medical, commercial and personal injury cases. From the claims stage through trial, he navigates his clients to successful resolution in controversies of all sizes. He has particular expertise in big-damages personal injury claims, and is often called upon to represent hospitals, doctors and local practice groups in birth injury and wrongful death claims.



Adam V. Maiocco

Adam V. Maiocco is a member of the firm's Medical Malpractice & Hospital Liability Defense and Professional Malpractice & Liability Defense practice groups. Attorney Maiocco is a skilled civil litigation attorney specializing in medical malpractice defense, legal malpractice defense, premises liability, motor vehicle, and other personal injury matters. He has many years of experience handling cases at every phase of litigation.