

OF COUNSEL

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Use of Outlawed Forceps Delivery Results In a \$63 Million Verdict

Luke
Korzeniowski

After deliberating less than a day, a jury in the 15th Circuit Court of Palm Beach County has awarded a \$63 million verdict to six-and-a-half year old Luke Korzeniowski and his parents, Jennifer & Derik Korzeniowski of Columbus, GA.

The Korzeniowski family was represented by Searcy Denney Scarola Barnhart & Shipley attorneys Chris Searcy and David White.

The defendants in the lawsuit – Korzeniowski vs. Eagleman & Bethesda Memorial Hospital – were Dr. Attila Eagleman and Bethesda Memorial Hospital, both of Boynton Beach, FL.

In the six-week trial before Circuit Court Judge David Crow, it was revealed that Dr. Eagleman had decided to deliberately induce the birth of Luke Korzeniowski, despite the fact that his mother was having a normal pregnancy. Furthermore, Dr. Eagleman decided to take the baby by utilizing a high forceps delivery that has been outlawed in obstetric practice for more than 40 years because of the large number of babies that were born brain damaged from this procedure. The induction and high forceps delivery occurred on October 30, 1997.

As a direct result of this high forceps delivery, Luke Korzeniowski was born with severe brain damage. He spent 19 days in the hospital's neonatal intensive care unit fighting for his life, his hind brain full of blood. Since then, young Luke has had to endure 14 different brain and spinal surgeries and will need around-the-clock care for the rest of his life.

In 1995, the Florida Agency for Health Care Administration (AHCA) investigated Atilla Eagleman, M.D. and filed an administrative complaint against him on October 31, 1995. Count I of the administrative complaint alleged that Dr. Eagleman was guilty of gross or repeated malpractice relating to the prenatal care of a 37 year old woman. Count II alleged that Dr. Eagleman was guilty of making deceptive, untrue or fraudulent representations in the practice of medicine. Count III alleged that Dr. Eagleman failed to keep written medical records justifying his care and treatment of his patient. Dr. Eagleman signed a Consent Agreement with AHCA on October 28, 1996 agreeing as follows: the charges were not contested; pay a fine of \$1,500; receive a Reprimand from the Florida Board of Medicine; serve a term of Probation for one year; and take a course in medical record keeping. On December 24, 1996, the Florida Board of Medicine issued its final order approving the Consent Agreement, but dismissing Count II, converting a Reprimand to a Letter of Concern and deleting the term of Probation. **Continued on page three.**



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During trial it became evident that since 1987, Dr. Eagleman never sent his prenatal records on any obstetrical patient to Bethesda Memorial Hospital prior to delivering the baby, including Jennifer Korzeniowski. It was also uncontested that Bethesda Memorial Hospital never investigated the facts underlying the administrative complaint filed against Dr. Eagleman by AHCA.

Plaintiffs' credentialing expert testified that the falsification of medical records was a serious matter, should have prompted an investigation by Bethesda Memorial Hospital, and that Dr. Eagleman should have been supervised by an obstetrician while treating his patients at Bethesda Memorial Hospital, including Jennifer Korzeniowski.

"Bethesda Memorial Hospital had a duty to supervise Dr. Eagleman's admission of patients for induction and a duty to supervise circumstances under which he performed forceps delivery," said attorney Searcy. "This disaster was a direct manifestation of the hospital's failure to assure Dr. Eagleman's competency through ongoing and careful review."

"The sloppy practice that ruined this little boy's life had been going on at Bethesda Memorial Hospital for more than 10 years before Jennifer Korzeniowski became a patient. If they had just fulfilled their duty to protect the safety of patients, this never would have had a chance to occur," said Searcy. "It's vital to the interests of every consumer that ends up hospitalized that all hospitals take seriously their duties to assure the competency of their medical staff." ■

Verdict Rendered Against Doctor "Frozen in Inactivity"

On February 26, 2004, a Tampa, Florida jury rendered a verdict in the amount of \$2.386 million on behalf of Chris and Rebeca Ipxox. The case was brought on behalf of the Ipxoxes' son, Christopher, who was born profoundly brain injured and who lived with severe disabilities up until his death at age two and a half.

On May 28, 1999, Rebeca Ipxox was admitted to St. Joseph's Women's Hospital for induction of labor. Her pregnancy and prenatal testing had been completely normal, but she had passed the 41st week of her pregnancy. Her doctor, Luciano Martinez, M.D., therefore scheduled Rebeca's admission to the hospital. There, he ordered nurses to administer a drug called pitocin to start Rebeca's contractions.

Over the course of the day, Rebeca's contractions progressed in frequency and duration, causing what was referred to by many experts as "hyper-stimulation" of her uterus. As a result, Rebeca's baby, who had tolerated the contractions initially, began to show signs of distress. Eventually, the baby's heartbeat slowed dramatically, dropping from a normal range of 140 beats per minute to as low as 45.

Nurses on duty for Rebeca's labor and delivery repeatedly urged Dr. Martinez to consider delivering the baby by Cesarean Section, but the doctor delayed the decision to do so. Rather, he ascribed the baby's reduced heartbeat to an equipment malfunction. The nurses finally summoned a supervisor, who also urged Dr. Martinez to take action. After having been "frozen in inactivity," the doctor finally called for a "stat" (immediate) c-section, and Rebeca was rushed to surgery.



Rebeca Ipxox with her son Christopher

Upon arriving in the operating room, Dr. Martinez listened for the baby's heartbeat and thought he heard it back in the 120-beat range. Concluding that the baby had recovered, he changed the status of the c-section from a "stat" to an "ASAP." Unfortunately, Dr. Martinez mistook Rebeca's heartbeat for that of her baby.

When baby Christopher was finally delivered, he was blue, limp, and not breathing. He had suffered severe and permanent brain damage during labor due to oxygen deprivation. Over the two and a half years of his life, young Christopher was never able to eat, talk, or even blink his own eyes. Christopher finally succumbed to pneumonia, a common complication suffered by profoundly brain damaged children.

Attorneys Karen Terry and John Shipley tried the case during the entire month of February. And while the Ipxox family would much prefer to have Christopher back, the verdict represents a measure of justice for the tragedy they and their baby endured. ■