

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

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Comprehensive Statewide Jury Verdict Coverage

Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts including circuit, division, presiding judge, parties, case number, attorneys and results.

Medical Negligence - The plaintiff went into hypovolemic shock several hours after giving birth related to post-partum blood loss – she never regained consciousness and died the next day – her estate alleged error by her treating Ob-Gyn in failing to manage her blood loss – the Ob-Gyn defended that the mother’s cardiac arrest was caused by an unrelated clot event – this Murray jury returned a record verdict for this jurisdiction and one that (after a reduction for comparative fault) exceeds the defendant’s \$2,000,000 policy limits by some \$370,000

Perkins v. Burnett, 09-557

Plaintiff: Paul A. Casi, II, Louisville
Defense: Scott P. Whonsetler and Robert A. Ott, *Whonsetler & Johnson*, Louisville and E. Frederick Straub, Jr., *Whitlow Roberts Houston & Straub*, Paducah

Verdict: \$4,739,587 for plaintiff less 50% comparative fault

Court: **Calloway**, J. Foust,
9-25-13

Desiree Perkins, age 23, delivered her second child early on the morning of 12-19-08 at Murray-Calloway County Hospital. She had presented at full-term just before midnight – a healthy girl, Kaylin, was delivered uneventfully at 2:20 a.m. by an Ob-Gyn, Dr. Ellen Burnett.

Almost immediately Perkins had excessive vaginal bleeding. Burnett

suspected a uterine atony condition whereby the uterus does not contract – this leads to bleeding. To alleviate this condition, Burnett prescribed an appropriate anti-atony medicine.

In the next 90 minutes, Perkins continued to lose blood. At approximately 4:00 a.m., Burnett evaluated Perkins again. While Burnett would also recall she properly evaluated Perkins at this consult, there would be fact disputes as to whether she took vital signs and examined Perkins.

For the next two hours after this visit, Perkins was monitored by a delivery nurse from the hospital. Her condition worsened. Notably her heart rate was dropping as was her blood pressure. There was proof that linked these troubling signs to ongoing blood loss. Despite the evidence of Perkins having a problem, the nurse did not alert Burnett.

Burnett did arrive at 5:55 a.m. when Perkins went into code. Despite being resuscitated, she never again awoke. The next day a surgery was undertaken. It revealed that Perkins had an inverted uterus – this leads to excessive bleeding. Despite the uterus being repaired, Perkins was declared brain dead. She died on 12-19-08, leaving behind her newborn daughter and a second older daughter, Abigail, then age 4.

In this lawsuit that was prosecuted by Perkins’s estate, error was alleged on the part of Burnett in failing to manage her condition. The plaintiff’s theory developed that Perkins was suffering from hypovolemic shock related to blood loss in the hours following the delivery. The error then was Burnett having failed to recognize

that condition and take aggressive efforts to replenish the lost blood.

That failure allowed a slow and continuous bleed to develop in the post-partum period as evidenced by the mother’s declining vital signs.

The estate developed its theory through a team of experts. They were: Dr. Dean Cromartie, Ob-Gyn, Hattiesburg, MS, Dr. Michael Foley, Ob-Gyn Critical Care, Scottsdale, AZ, Dr. Richard Smiley, Ob-Gyn Anesthesia, New York, NY, Dr. Jack Hirsch, Hematology, Ontario, Canada and Dr. Roy Filly, Ob-Gyn Ultrasound, San Francisco, CA.

If the estate prevailed at trial, it sought the medicals of \$37,762 plus the funeral bill of \$1,825. The decedent’s pain and suffering (from the time of delivery until she lost consciousness some 3 ½ hours later) was limited to \$2,000,000. Her impairment as quantified by William Baldwin, Economist, Lexington, was \$1,610,841. Each of her two children, Abigail (now 8) and Kaylin (now 4), sought \$5,000,000 for their consortium interest.

The plaintiff had also presented a claim against the hospital. It settled a week before trial for a confidential amount. The case advanced to trial against Burnett only.

Burnett defended the case that she properly monitored Perkins, including at the 4:00 a.m. post-partum visit – at this consult, Burnett both evaluated vital signs and examined Perkins. [The estate countered that there was no evidence of this in the medical record.]

Burnett also defended that

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