

Handwritten mark

IN THE FIFTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

FILED
2014 SEP 16 PM 3:46
RICHARD R. ROOKER, CLERK.

STORY L. LAURENT, Parent and)
Next of Kin of RYDER L. LAURENT,)
Deceased,)

Plaintiff,)

v.)

OLD HARDING PEDIATRIC)
ASSOCIATES, P.C.,)

Defendant.)

CASE NO.: 10C3273
JURY DEMAND

Handwritten signature: R. Wallace

PRETRIAL BRIEF ON BEHALF OF THE PLAINTIFF
STORY L. LAURENT

The Plaintiff Story L. Laurent submits this pretrial brief for the trial of this matter, which is set to begin on September 22, 2014.

I. INTRODUCTION OF THE PARTIES

Ryder Laurent, deceased, was a 21 month old son of Story Laurent. Old Harding Pediatric Associates, P.C. was the pediatric clinic where Story Laurent took her children. Dr. James Keffer was Ryder Laurent's main pediatrician.

II. BRIEF SUMMARY OF THE FACTS

Some time during the month of May 2009, the babysitter for Ryder Laurent pulled a tick off of his bottom. On May 18, 2009, Ms. Laurent took her son to Dr. Keffer and, according to Ms. Laurent, told Dr. Keffer that her son had a tick removed from his bottom by the babysitter. There is no reference to this in the medical records of Dr. Keffer.

Ms. Laurent brought her son back to Old Harding Pediatric on:

May 19, 2009

May 26, 2009

May 31, 2009

On June 3, 2009, Ms. Laurent brought her son to Old Harding Pediatric because he had a fever and a rash on an area on his face of concern. Ms. Laurent reported to the doctor that her son seemed disoriented at times. She also reported that she had had four to five visits for the same rash on his face. In addition, the mom, once again, reported to Old Harding Pediatric that her son had a recent tick bite.

“Recent tick bite to bottom” is in the records for Dr. Patton on June 3, 2009.

Old Harding Pediatric should have been aware of the fact that Ryder Laurent had a tick removed from his bottom.

There is a dispute concerning the conversation between Dr. Patton and Ms. Laurent. In any event, Dr. Patton did not believe that the tick bite had anything to do with the rash on Ryder Laurent’s face or his fever. In one section of the medical records, Dr. Patton notes that

he had an ear infection. In the computerized portion of the medical records, the ears are clear.

The next morning, on June 4, 2009, Ryder Laurent had a fever and the rash was spreading. It was no longer confined to an area on the face. Instead, it was a new rash on his head, neck, and upper extremities. His fever had spiked to 102.8°. Ms. Laurent brought her son to see her son's pediatrician, Dr. Keffer.

Inexplicably, and below the standard of care, Dr. Keffer did not review the chart from the day before. If he would have thoroughly reviewed the chart from the day before, he would have seen the reference to a recent tick bite; however, because he did not review the entire chart from the day before, Dr. Keffer did not make himself aware of the medical history of a tick bite. Dr. Keffer wrongfully assumed that the spreading rash and spiking fever was a result of an allergic reaction. According to Dr. Keffer's notes, he claims he told Ms. Laurent that it would take "one to two days to see clinical improvement" and to "call if worsening or failing to improve in a few days."

Nothing was mentioned to Ms. Laurent about the rash and fever potentially being a result of a tick borne illness.

At 3:00 p.m. on June 4, 2009, Ms. Laurent called Old Harding Pediatric because she was concerned about her son. He did not look any better.

At 7:57 p.m. on June 4, 2009, Ms. Laurent called Old Harding Pediatric again. An appointment was set for 1:00 p.m. on Friday, June 5, 2009.

Due to concerns overnight regarding her son's condition, Ms. Laurent took her son to the emergency room at Vanderbilt the morning of Friday, June 5, 2009.

Unlike Old Harding Pediatric, Vanderbilt was unaware of the history of a recent tick bite.

At Old Harding Pediatric, when Ms. Laurent did not show for the 1:00 p.m. office visit, no one called Ms. Laurent to find out what was going on with her son. Instead, Dr. Keffer discovered that Ms. Laurent had taken her son to Vanderbilt and assumed that she was switching care to the pediatric clinic at Vanderbilt. There is nothing in Old Harding Pediatric records to indicate a basis for this assumption. Dr. Keffer did not call Ms. Laurent. Dr. Keffer did not instruct his nurse to call Ms. Laurent.

On Friday evening, June 5, 2009, Ms. Laurent called Old Harding Pediatric regarding her son. An after hours nurse, on behalf of Old Harding Pediatrics, took the phone call. The nurse dictated a session summary report and faxed it to Old Harding Pediatric the evening of June 5, 2009.

On Monday, June 8, 2009, Ms. Laurent took her son back to Vanderbilt. Her son was admitted to Vanderbilt and transferred to the intensive care unit. At this point, it was discovered that he likely had a tick borne illness. Treatment ensued, but it was too late. Ryder Laurent died on June 10, 2009.

III. MEDICAL ISSUES

Doxycycline is a very effective treatment for tick borne illnesses including ehrlichiosis and Rocky Mountain spotted fever. The plaintiff contends that Old Harding Pediatric knew of the tick bite and fell below the standard of care in not properly monitoring Ryder Laurent, which resulted in Old Harding Pediatric failing to start Ryder Laurent on Doxycycline.

As set forth in the Plaintiff's Rule 26, Old Harding Pediatric fell below the standard of care when they failed to consider, given Ryder's symptoms and history, a tick borne illness. No blood work was ordered on Ryder Laurent. In addition, given the history of a tick bite, which Dr. Keffer would have known if had looked at the records from the day before, the worsening symptoms, including the fever and the spreading rash, Dr. Keffer should have investigated the cause of Ryder Laurent's symptoms.

IV. EXPERTS: VIOLATIONS OF STANDARD OF CARE

The testimony that will be offered by expert witnesses for the plaintiff is in much more detail than what defense puts forth in their pretrial brief.

Defendant has not identified any experts in their Rule 26 who will address the standard of care at Vanderbilt. While plaintiff's counsel may choose to open the door to the issue of whether defense experts are blaming Vanderbilt, defense counsel should be prohibited from eliciting such testimony from any of its witnesses because no notice was given of this fact in the Rule 26 pleadings.

Respectfully submitted,

KINNARD, CLAYTON & BEVERIDGE

By: *Daniel L. Clayton*
Daniel L. Clayton #12600
The Woodlawn
127 Woodmont Boulevard
Nashville, Tennessee 37205
(615) 297-1007

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been sent via facsimile and U.S. mail, postage prepaid to:

Thomas A. Wiseman, III, Esq.
Kimberly G. Silvus, Esq.
WISEMAN ASHWORTH LAW GROUP, PLC
511 Union Street
Suite 800
Nashville, Tennessee 37219-1733

on this the 16 day of September, 2014.

Daniel L. Clayton
Daniel L. Clayton