

Court Dismisses Medical Malpractice Case after Experts Debunk Birth Injury Theory

PUBLISHED ON

November 8, 2022

By: [Luke T. Weber, Esq.](#) and [Tasha Stoltzfus Nankerville, Esq.](#)

A federal judge in Pennsylvania recently dismissed a case after rejecting a plaintiff's attempt to introduce "junk science" in a birth injury case. In *M.D.R. by Rivera v. Temple Univ. Hosp.*, the plaintiff offered two experts who opined that a brachial plexus injury during delivery can *only* occur as a direct result of the delivering obstetrician's application of excessive traction on the baby's head and *cannot* be caused by the natural forces of labor. Based on this argument, if a brachial plexus injury occurred, it had to be the result of negligent care. The court reviewed a large volume of medical literature from recognized worldwide experts that rejected the plaintiff's theory in making its determination. The court, in particular, relied on and cited to the comprehensive report on brachial plexus injuries produced by the [American College of Obstetricians and Gynecologists](#) 2014 Task Force, which concluded that the cause of brachial plexus injury *cannot be attributed only* to traction applied by the clinician alone.

Brachial plexus injuries are a common source of medical malpractice claims. In short, when the network of nerves located in the neck and shoulder are stretched, compressed, or torn during the birthing process the result can be permanent weakness or paralysis of the affected arm. In newborns, this type of injury is associated with shoulder dystocia - the obstruction of delivery due to the impaction of the fetal shoulder with the maternal pelvis. The plaintiffs' bar frequently contend that the brachial plexus injury could only have occurred because the delivering physician applied inappropriate force or traction in managing the shoulder dystocia and not from the natural maternal forces of labor. The court's decision in *M.D.R.* acknowledged this litigation theory is not supported by actual medicine and that the science does not require that conclusion.

Challenging expert opinion evidence in litigation is often difficult. Defendant medical providers find the process of facing unsupported medical opinions often unfair. Barley Snyder's team of medical malpractice attorneys faces this challenge head-on and works alongside true experts in the medical field to fervently evaluate and dispute plaintiffs' made-for-litigation theories in our courts. Armed with a complete understanding of the credible medical literature, and with the backing of highly qualified experts, our attorneys develop strategies and approaches to ace the task of unveiling advocacy parading as science to both judges and juries.

If you have any questions about this case or how it could affect your health care organization, please [contact me](#) or any member of the [Barley Snyder Health Care Industry Group](#).

WRITTEN BY:

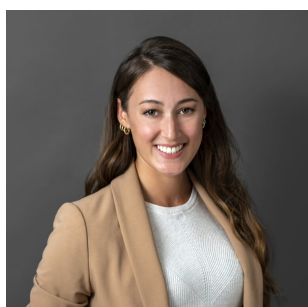


Luke T. Weber

Partner

Tel: (717) 399-1513

Email: lweber@barley.com



Tasha R. Stoltzfus Nankerville

Associate

Tel: (717) 208-8836

Email: tnankerville@barley.com