

Law

Wicomico jury awards \$2M for infant's death

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Daily Record Legal Affairs Writer
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A Wicomico County jury Thursday awarded \$2 million to a Salisbury couple who claimed their 19-day-old son died in 2004 after his pediatrician advised them not to seek medical attention and instead change baby formulas.

The decision in favor of Leroy Turner Jr. and Janet Turner and against Dr. Stephen M. Cooper will most likely be cut in half because of the 2004 cap on medical malpractice and personal injury awards, said Marian L. Hogan, one of the Turners' attorneys.

Still, the Turners were pleased with the decision following two-and-a-half hours of jury deliberation, said Hogan, of Nash & Associates LLC in Towson.

"They felt vindicated," said Hogan, who argued the case along with co-counsel Brian J. Nash. "The doctors were trying to blame them for the baby's death."

Curt Booth, Cooper's attorney, said he was looking into filing an appeal.

"It's unfortunate because I still believe in my heart that Dr. Cooper did the right thing," said Booth, of Cowdrey, Thompson P.C. in Easton, who argued the case along with Roy B. Cowdrey Jr.

Cooper had been the Turners' pediatrician for more than six years prior to Myron Jaron Turner's birth on Aug. 3, 2004, according to Hogan and Booth.

Myron lost weight leading up to his two-week checkup with Cooper, Hogan said. During the check-up, Cooper told the Turners to change the baby's formula, thinking Myron might be allergic, Hogan and Booth said.

Three days later, a Friday, Leroy Turner called Cooper because Myron had not gotten any better. Hogan said Cooper recommended another change in formula. Booth did not dispute that but said the decision came after a 30-45 minute conversation during which the two men reviewed all of the options for Myron.

The next day, Aug. 21, the Turners took Myron to Peninsula Regional Medical Center. He was later airlifted to Johns Hopkins Hospital, where he died early Aug. 22 of sepsis, a blood infection, Hogan said. Myron was also dehydrated when he died, she added.

"Had the doctor sent him to the hospital, he would have known he was on the way to an infection and needed fluids," Hogan said. "Had he been hospitalized Friday night, he would have survived."

Medical experts from across the country testified during the seven-day trial presided over by Judge W. Newton Jackson III. One expert said Myron could not tolerate the baby formulas, while another said Cooper would not have been able to detect Myron's infection on the Friday that Leroy Turner called, Booth said.

But Booth felt the emotional aspects of the case ultimately swayed the jury.

"This is an awful circumstance that happened to good people," he said. "There's never a good antidote for sympathy."

Turner et al v. Cooper et al

Court: Wicomico County Circuit Court

Case No: 22C07000930

Proceeding: Jury Trial

Judge: W. Newton Jackson III

Outcome: Plaintiff

Award: \$2 million

Dates: Incident: Aug. 22, 2004; Suit filed: July 3, 2007; Disposition: Sept. 11, 2008

Plaintiff's Attorneys: Brian J. Nash and Marian L. Hogan of Nash & Associates LLC in Towson

Defense Attorneys: Curt Booth and Roy B. Cowdrey, Jr., of Cowdrey, Thompson P.C. in Easton

Count: Negligence