



Jury awards \$5.5M for injury at birth

Parents sued two Great River Women's Health Care physicians.

By JOHN MANGALONZO jmangalanzo@thehawkeye.com

A Des Moines County jury awarded a Burlington couple \$5.5 million based in its belief two Great River Women's Health Care physicians were negligent and caused a life-altering injury to the couple's baby during delivery.

Jaime and Ingrid Gerling sued Michael McCoy and Kimberly Marshall, physicians at the center, in 2009, two years after their daughter, Nyasia, was delivered.

Great River Women's Health Care also was named in the lawsuit.

Nyasia, who turns 5 years old next Wednesday, suffered a shoulder dystocia during delivery on Feb. 1, 2007.

A shoulder dystocia is considered an obstetrical emergency and occurs when the infant's shoulder becomes lodged against a bony structure in the mother's pelvis, typically the pubic bone.

The trauma to Nyasia's right shoulder ripped nerves in her brachial plexus, which is a bundle of nerve fibers running from the spine through the shoulder, arm and hand.

The Gerlings alleged the physicians could have prevented the injury with proper medical procedures.

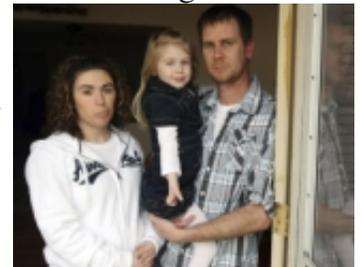
The jury's decision came Monday afternoon after a nearly two-week trial, in which several experts - ranging from medical professionals to laymen - took to the stand. The jury deliberated for nine hours before reaching the verdict.

Jurors awarded Nyasia Gerling from \$500,000 to \$1.7 million for pain and suffering and loss of function in her body. The total amount for the child came to \$5 million.

The jury ruled the girl's parents should receive \$500,000 for past and future loss of consortium.

"We think the verdict reflects the serious and permanent injury to this little girl's right arm that she's going to

Related Images:



John Lovretta/The Hawk Eye

Four-year-old Nyasia Gerling with her parents Jaime and Ingrid, Thursday March 3, 2011 in their Burlington home. Nyasia, suffered nerve damage at birth that affected the use of her right arm and hand. A Des Moines County jury awards the Burlington couple \$5.5 million after siding with them in a malpractice lawsuit against a local doctor at Great River Women's Health.

have with her for the rest of her life," Brian P. Galligan, the Gerlings lead attorney said Tuesday.

Nyasia has had two surgeries, giving some function back in her arm, which started with no function at all. The surgeries reportedly cost \$74,000.

More surgeries may be needed, "but she will never have proper and full use of her arm," Galligan said.

"(The Gerlings) are grateful that the jury recognized how serious and permanent this injury is and that the jury took the time and care to really pay attention throughout the trial," Galligan said. "It was clear they were very attentive and that's reflective with their findings."

Great River Women's Health Care spokeswoman Patty Beckman said staff is reviewing the jury's decision.

"There are additional motions as part of the process following trial that are currently under review," Beckman pointed out. "Out of respect, we will hold further comment until the appropriate time."

In the lawsuit, the Gerlings said McCoy and Marshall "breached the standard of care for obstetrician and were negligent," which caused their daughter's injury.

Defense attorneys have argued the doctors and staff followed the standards and the "injuries can happen even when everything is done properly."

Galligan said McCoy and his staff, failed to properly diagnose Ingrid Gerling during her pregnancy, labor and delivery.

The case went to a jury after Great River Women's Health Care and the physicians named in the lawsuit apparently expressed their unwillingness "to entertain settlement discussions," Galligan said.

"They were not interested," the attorney noted.

For his part, Galligan said his firm does not accept all malpractice lawsuits coming in their door.

"Anytime we decide to take on a medical malpractice case, and we only take a very small percentage of the case that comes in our office, we make sure the case is one we're comfortable presenting all the way through a jury trial, if necessary," he said. "We're very careful about selecting cases that are meritorious."

The Gerlings opted to have their attorney speak for them.

McCoy, an ob-gyn physician, graduated from Creighton Medical School in Omaha, Neb. He took residency at the University of Iowa Hospitals and Clinics in Iowa City from 1986 to 1990, when he became board certified.

Marshall, also an ob-gyn physician, received her medical degree from the University of Illinois and took residency at Southern Illinois University.

The lead attorney for the defense directed all inquiries to Beckman at the health care center.

"We felt the care fell below standards and that the injury was avoidable," Galligan said. "The jury did the right thing."