

GADSBY WICKS

Clinical Negligence Casebook

Birth injury claim

Issue: Neo-natal death due to untreated sepsis

The Claim: Specialist medical negligence solicitor, Tami Frankel, pursued a claim for the Brereton family following the death of their son at 4 days old. The claim was made on the basis that three risk factors for sepsis were not identified when Mrs Brereton attended the hospital after her waters had broken prematurely. There was then a failure to identify that the symptoms of her newborn baby Leon's inconsolable crying and difficulty in feeding were also indications for sepsis, particularly in a premature baby. This meant that Leon did not receive intravenous antibiotics, either at birth or later within the time when he could still have been saved.



Result: The hospital admitted breach of duty and causation and, after negotiations, a settlement was reached. (August 2017).

Compensation awarded: £35,000 (General Damages £16,500 + Special Damages £5,520 + Bereavement Award £12,980. Additionally, Leon's father was awarded £4,000 and his grandmother was awarded General Damages of £12,500 for the trauma they had each experienced.)

Case Summary:

On January 29th 2014, at 35 weeks into her pregnancy, Sarah Brereton went to hospital as her membranes had ruptured. Next day, the CTG that was monitoring the baby's heart rate showed an abnormal trace and Leon was born by emergency Caesarean Section. Tragically, he died four days later from untreated sepsis.

After Leon was delivered, his Apgar scores were 9 at 1 minute and 10 at 5 minutes. However, he began grunting and so was taken to the Special Care Baby Unit. He was then returned to his mother after having being assessed as well enough to room with her. Over the next 3 days in hospital, Leon was observed to be very unsettled and was vomiting after most feeds. He cried inconsolably and pulled his knees up to his chest.

Sarah and Leon were discharged home from hospital on 2nd February by a paediatrician who had visited him earlier in the day and was happy to agree his discharge over the phone with a midwife. Earlier that morning, Leon had been seen by a student doctor who was concerned at the symptoms of continuous crying and vomiting and had given a differential diagnosis that the baby was either over-eating or suffering from sepsis. The doctor ordered tests; however, the paediatrician did not appear to consider the results of these tests before making his decision to discharge.

Client names have been changed to protect their identity.



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The following morning, Sarah noticed a little blood around Leon's nose and wiped it away. She then noticed some more blood and, at 8.50am, telephoned the Midwifery-led Unit for advice. There was concern over the appearance of old blood in Leon's mucus and so a provisional appointment was arranged for 10.45am that morning. However, as his grandmother held him while his mother was in the kitchen preparing a bottle feed, Leon began to bleed from his nose and mouth and stopped breathing. An ambulance was called and paramedics stabilised him before he was transferred to hospital where a resus team was waiting. He arrived at 10.45am.

Leon's father, Guy, was working in Hull and received a telephone call to tell him of his son's collapse. He returned immediately and saw Leon in the hospital. Sadly, resuscitation was unsuccessful and Leon died later that day, at 4 days of age. Signs of sepsis - including prematurity, pre-labour rupture of membranes (and the fact that they had been ruptured for more than 18 hours) along with Leon's inconsolable crying and feeding difficulties – had been overlooked and, despite the student doctor's differential diagnosis, the intravenous antibiotics that could have saved him were not administered. Following an Inquest, at which the Coroner was critical of the hospital, breach of duty was admitted.

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