

Jury decides T.J. Samson must pay \$18.3M in negligence case

By MELINDA J. OVERSTREET • Glasgow Daily Times | Posted: Tuesday, November 25, 2014 8:20 pm

A Barren County jury determined Tuesday evening that a child who suffered a brain injury during his birth at T.J. Samson Community Hospital is due an award of nearly \$18.3 million.

The jury deliberated for just over an hour before the announcement of its judgment, which went solely against the hospital. In 2011, the child, Tristan Hamilton, by and through his mother, Brittney Hamilton, sued the hospital and Kelly Dirig, the obstetrician-gynecologist who delivered Tristan.

Dirig was cleared of the accusation of medical negligence.

The civil trial began Nov. 12 in Barren Circuit Court and was in session a total of seven days, spread across the two-week period.

Tristan, who was injured during delivery in 2007, was diagnosed with spastic quadriplegia, which is a form of cerebral palsy, and other health issues, according to court documents. Key issues in the case included the proper use of the drug Pitocin during the delivery process and the communication between Dirig and T.J. Samson employees during the birth. Pitocin is commonly used to induce labor.

Tuesday's proceedings began with a final witness on behalf of the hospital, followed by jury instructions and closing arguments from attorneys representing each of the three sides in the case. The jury began deliberations at 4:40 p.m. Just before 6 p.m., it had reached a verdict.

Ten of the 12 jurors concluded it was the duty of the hospital and its employees in caring for the mother and baby “to exercise the degree of care and skill ordinarily expected of reasonably competent and prudent hospitals under similar circumstances,” and that the hospital failed in that duty. After agreeing on that point, jurors then had to decide that the failure “was a substantial factor in causing Tristan Hamilton's injuries.” Again, 10 jurors agreed on that finding.

The wording was virtually identical in what the jury was asked to decide about Dirig, except “hospitals” was replaced with “OB-GYN physician.” The jurors' answer was unanimously “no” on the first question relating to the doctor, rendering the second question irrelevant.

The total award of \$18,270,052.37 includes amounts for medical, hospital and prescription-related expenses to date (\$462,917.37) and in the future, based on a calculated life expectancy of 75 years (\$9,000,797); impairment of power to labor and earn money (\$1,505,940); and mental anguish and

pain and suffering in the past (\$2,800,000) and the future (\$4,500,398).

The total amount requested by the Hamiltons was \$24,276,392.37.

During closing arguments, the Hamiltons' attorney, Tyler Thompson, told the jury he had come to have a great deal of respect for Dirig. In fact, Thompson asked the jury to not find against Dirig, outlining reasons the hospital should be held responsible.

T.J. Samson co-counsel Jeff Herbert provided the Daily Times with a prewritten statement at the conclusion of the trial:

“T.J. Samson has been committed to providing the best healthcare possible to our community since 1929. We take the concerns presented in this case very seriously, and our hearts go out to Tristan and his family. The high quality of care we provide to our patients every day is the result of a continuing commitment of our dedicated caregivers and physicians. Such care is evident in the more than 1,200 babies that T.J. Samson proudly delivered last year alone.”

Both Thompson and Dirig's attorney, Scott Whonsetler, said they appreciated the jury's willingness to learn about the complex medical issues in the case.

“(Tristan) was injured just about as badly as a child could be,” Thompson said, “so the amount reflected the extent of the injury.”

Whonsetler said he was surprised that Thompson essentially spoke in favor of his client. He said he is happy about the outcome for Dirig, who he called “an exceedingly bright OB-GYN.”

Dirig, who is not an employee of T.J. Samson, holds medical privileges at the hospital, as she has since 2002.

– Due to special holiday-week deadlines, this story will not appear in Wednesday's print edition of the Daily Times. Look for more in Friday's print edition.