

Anne Arundel County jury awards \$2.5M in nerve damage case

'Red-flag symptom' missed, attorney argued

By **DANNY JACOBS**

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An Anne Arundel County jury has awarded more than \$2.5 million to a woman with permanent nerve damage after a ruptured disc in her back went undiagnosed.

The award last week for Miriah Turner Donner includes \$2 million in noneconomic damages, which would be reduced to \$680,000 under Maryland's cap on such damages in medical malpractice cases.

Donner was 19 years old when she arrived at Anne Arundel Medical Center's emergency room on Sept. 6, 2010, complaining of severe back pain and numbness in her pelvic region, according to the complaint. Donner had three bulging discs in her back and said the pain "had been exacerbated" after she ran through an airport a few days earlier, according to the complaint, filed in September 2013.

Ellen B. Flynn, one of Donner's lawyers, said her client's back problems were degenerative but her trip to the emergency department was the first time she experienced numbness.

Jane Anne Corner, a nurse practitioner on call, noted Donner's condition but did not perform a neurological consultation nor order an emergency MRI at the hospital, according to the complaint.

Donner alleged Corner did not identify the numbness and back pain as signs of cauda equina syndrome, which affects nerve roots at the lower end of the spinal cord and can be caused by bulging disks. The problem can be fixed if addressed promptly, according to Flynn, of Dugan, Babij & Tolley LLC in Timonium.

"The window of opportunity was missed because they didn't pay attention to the red flag symptom of pelvic numb-

MIRIAH TURNER DONNER V. ANNE ARUNDEL MEDICAL CENTER INC., ET AL.

Court:

Anne Arundel County Circuit Court

Case No.:

O2C13181797

Judge:

Michele D. Jaklitsch

Outcome:

Verdict for plaintiff for \$2,523,869 – \$2 million for noneconomic damages (reduced to \$680,000 under the cap for noneconomic damages) and \$523,869 for future economic damages

Dates:

Incident: September 2010

Suit filed: Sept. 16, 2013

Verdict: March 10, 2015

Plaintiffs' Attorneys:

Ellen B. Flynn and Alison D. Kohler of Dugan Babij & Tolley LLC in Timonium.

Defendant's Attorneys:

Robert S. Morter and Dana K. Schultz of Wharton Levin Ehrmantraut & Klein P.A. in Annapolis.

Counts:

Negligence, failure to obtain informed consent

ness," said Flynn, who tried the case with Alison D. Kohler. "They needed to address it quickly."

Donner's ruptured disk was identified during a previously scheduled MRI two days after her emergency room visit, the complaint states. She went in for surgery the same day but by then had "complete numbness in the pelvis, thigh and buttocks" as well as problems going to the bathroom, the complaint states.

Donner continues to have numbness in her pelvic region and legs, Flynn said.

During the nine-day trial before Judge Michele D. Jaklitsch, Flynn said the jury "wasn't distracted" by defense claims that the standard of care was not breached or that the injury was Donner's fault.

The jury of five women and one man deliberated for more than four hours before coming back with its verdict, Flynn said. Donner was pleased with the outcome, she added.

"It was a very emotional trial for her," Flynn said. "We had to deal with personal issues and talk about them in front of strangers."

Robert S. Morter, one of Corner's lawyers, said a decision on an appeal will be made after rulings on forthcoming post-trial motions. Morter said the jury's verdict reflected sympathy toward a young plaintiff but that Corner's actions were "medically defensible" and Donner's care was supported by the defense's medical experts.

"We had a good client who we believe fully provided the standard of care to the patient," said Morter, a shareholder with Wharton Levin Ehrmantraut & Klein P.A. in Annapolis.

Corner is an employee of Doctors Emergency Services P.A., which staffs the emergency room at Anne Arundel Medical Center.

There were no allegations of wrongdoing against Doctors Emergency Services, and Corner's supervisor was dismissed as a defendant after the plaintiff's case was presented.

Anne Arundel Medical Center was dismissed from the case prior to trial.