

# Connecticut LawTribune

ALM

## \$1.3 Million For Girl's MRSA Infection

Southington plaintiff faces prospect of multiple hip replacements

**Jenny PPA v. State of Connecticut:** The University of Connecticut Medical Center in Farmington has agreed to pay a \$1.3 million settlement to a young girl who has long-term hip problems as the result of an infection.

Some time shortly after her birth five years ago, Sabrina Jenny developed an infection from the antibiotic-resistant "super bug" MRSA, short for Methicillin-resistant Staphylococcus aureus. According to plaintiffs' lawyers **Paul Edwards** and **Joel Faxon**, of New Haven's **Stratton Faxon**, the precise manner in which she acquired the infection remains unknown.

The infection began in her ankle, said Faxon, and migrated to her hip. Despite evidence of hip pain, the infection persisted for several weeks without diagnosis, and bone began to be destroyed through avascular necrosis. "Basically there's no blood flowing through the bone, so you get bone death," Faxon said.

Neonatologists performed an ultrasound test, which uncovered no problem. Plaintiffs' experts testified that the doctors should have followed with an orthopedic consultation and a procedure to "aspirate" the hip with a needle to search for problem infection.

In addition, the plaintiffs contended that the neonatologists should have called for X-rays, a CT-Scan and MRI scanning, referring to Computed Tomography and Magnetic Resonance Imaging.

Those tests didn't happen, said Faxon, nor was the infant seen by an orthopedic consultant. In the baby's medical record, said Faxon, "it said 'orthopedic consult pending,' but the orthopedic consult never occurred."

The UConn Medical Center is, of course, operated by the state. Permission to sue the state was obtained through the claims commissioner under a statute that carves out an exception to sovereign immunity for medical malpractice claims against Connecticut or its agents.



Law Tribune File Photo

**Attorney Joel Faxon's firm obtained permission to sue the state-run Uconn Medical Center under a statute that carves out an exception to sovereign immunity for medical malpractice claims against Connecticut or its agents.**

"It's rare. There are very few exceptions to sovereign immunity," Faxon said.

The plaintiffs' case was strong on damages, Faxon said, but weak on causation.

The damage to the girl's hip would probably require joint replacement, perhaps multiple times as she grew, he confirmed. The damages are part of a structured settlement of \$1,312,500, paid out over her lifetime to assure she would be able to afford necessary therapeutic care. Faxon said he did not recall the present value of the settlement for the Southington youngster.

One difficult thing with any infection case is showing the causation. "You don't have minute-by-minute evidence of when intervention would have made a difference," Faxon said. Because of those uncertainties, he said, this appeared to be a case that should settle without risking a trial.

"In the end, the family was very happy with the result," Faxon said. "They entered into a structured settlement that will take



Law Tribune File Photo

**Attorney Paul Edwards negotiated a settlement that will pay \$1.3 million to a Southington girl who contracted the "super bug" Methicillin-resistant Staphylococcus aureus.**

care of Sabrina for the rest of her life."

The hospital was represented by **Melinda S. Monson**, of Hartford's **O'Brien, Tanski & Young**. She had not returned a call for comment by press time.

The difficulty of proving proximate cause presented a risk that a jury would return a defense verdict. However, the virulent nature of MRSA made the case a good one for the defense to settle as well, Faxon said.

According to the scientific literature, MRSA normally does not spread in a hospital environment without some breach of the hospital's basic sanitation protocols. "It is an extremely hard-to-kill infection. It's absolutely imperative that MRSA infections be dealt with as soon as possible, because the outcome, if that's not done, can be devastating." Edwards conducted the settlement negotiations, but he was involved in a trial and unavailable for comment.

— Thomas B. Scheffey