



### KINGS COUNTY

#### MEDICAL MALPRACTICE

##### Delayed Treatment — Infection Control

## Untreated infection led to uterine damage, patient alleged

#### VERDICT

#### Defense

#### CASE

Meileen Rivera & Eric Rivera v. Joseph Ahram M.D.; Stephan Hosmer, D.O.; Dr. A Weinstein; Prasanta Chandra, M.D.; & Wyckoff Heights Medical Center, No. 29432/01

#### COURT

Kings Supreme

#### JUDGE

Gloria C. Aronin

#### DATE

3/18/2004

#### PLAINTIFF

#### ATTORNEY(S)

Edward P. Milstein, Dankner & Milstein P.C., New York, NY

#### DEFENSE

#### ATTORNEY(S)

Michael B. Lehrman, Arshack & Hajek PLLC, New York, NY (A. Weinstein, Wyckoff Heights Medical Center)  
**John A. Orbon, Amabile & Erman P.C.**, Staten Island, NY (Joseph Ahram, Prasanta Chandra, Stephan Hosmer)

**FACTS & ALLEGATIONS** On March 23, 2001, plaintiff Meileen Rivera, 25, a homemaker, was admitted to Wyckoff Heights Medical Center in Brooklyn, where she was to deliver her second child. Rivera's first child was born via a Caesarean delivery. This time, Rivera wanted to attempt a vaginal delivery.

Doctors administered a small dose of Pitocin, a drug that increases the frequency and intensity of uterine

contractions. After six hours, the drug was discontinued, so Rivera could sleep.

The next morning, March 24, Dr. Stephan Hosmer assumed care of Rivera. Hosmer restarted the administration of Pitocin, but Rivera's contractions did not progress quickly.

At approximately 5:50 the next morning, March 25, Rivera became feverish. She was administered Tylenol.

At approximately 8 a.m., doctors determined that Rivera had developed an infection. She was administered antibiotics. Doctors suspected that she had also developed chorioamnionitis, inflammation of the membrane that covers the fetus. Furthermore, the fetus had developed tachycardia—abnormally fast heart activity. Rivera's cervix was dilated to 8 centimeters and 100% effaced. However, the labor continued to progress slowly. At approximately 8:50 a.m., a C-section was performed, and a healthy baby was delivered.

Shortly thereafter, doctors determined that Rivera had developed uterine atony, or incomplete contraction of the uterus. The condition causes heavy bleeding and, in Rivera's case, it necessitated performance of a hysterectomy.

Rivera commenced a medical malpractice suit against the hospital and several of its doctors: Hosmer; admitting obstetrician Dr. Joseph Ahram; a doctor who performed a biophysical profile, Dr. Prasanta Chandra; and a resident who assisted the delivery and was identified only as Dr. A. Weinstein. Rivera alleged that the defendants did not render timely treatment.

Rivera subsequently discontinued her claims against Ahram, Chandra, Weinstein and the hospital. The matter proceeded to trial against Hosmer.

Rivera claimed that her infection should have been anticipated when her fever was detected. She contended that antibiotics were administered some two hours later, and that the treatment delay led to the development of her uterine atony. She argued that a C-section should have been performed at approximately 5:50 a.m. on March 25, when the fever was detected.

Hosmer acknowledged that Rivera became feverish at approximately 5:50 a.m., but he argued that she was close to being capable of undergoing a vaginal delivery. As such, he contended that it was appropriate to allow time for such a delivery. He further contended that Rivera was given antibiotics and Tylenol and that her condition was monitored.

Hosmer also argued that the infant was not infected and that its tachycardia was simply a reaction to Rivera's fever. As such, he contended that the C-section was performed in a timely manner. He added that uterine atony is unpredictable and that it can occur as a result of many different types of circumstances.

#### **INJURIES/DAMAGES** *hysterectomy*

Rivera developed uterine atony that necessitated performance of a hysterectomy. She sought recovery of damages for her past and future pain and suffering. Her husband, Eric, presented a loss-of-services claim.

**RESULT** The jury rendered a defense verdict. It found that Hosmer rendered acceptable treatment.

**DEMAND** \$750,000

**OFFER** None

**INSURER(S)** Medical Liability Mutual Insurance Co.  
for Hosmer

**TRIAL DETAILS** Trial Length: 2 weeks  
Jury Deliberations: 3.5 days  
Jury Vote: 5-1  
Jury Composition: 2 male, 4 female

#### **PLAINTIFF**

**EXPERT(S)** Dr. Lawrence Borow, obstetrics,  
Villanova, PA

#### **DEFENSE**

**EXPERT(S)** Dr. Henry Prince, obstetrics,  
Woodbury, NY

**POST-TRIAL** Judge Gloria Aronin denied the Riveras' post-trial motions.

**EDITOR'S NOTE** Counsel for the Riveras, Wyckoff Heights Medical Center and Weinstein did not respond to faxed drafts of this report or phone calls.

–John Hadler