

News | **Medical Malpractice**

Superior Court Upholds \$207.6M Birth Injury Judgment Against Penn Hospital

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What You Need to Know

- The Superior Court upheld a \$207.6 million birth injury judgment against the Hospital of the University of Pennsylvania.
- The hospital had argued, among other things, that the plaintiff had pursued a theory of 'team liability' that was not recognized by Pennsylvania law.
- The award is Pennsylvania's largest-ever reported medical malpractice verdict.



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The Pennsylvania Superior Court on Thursday upheld a record-breaking \$207.6 million birth injury judgment against the Hospital of the University of Pennsylvania.

In a 45-page precedential [opinion](#), the three-judge panel rejected HUP's argument that the judgment had been based on a theory of liability that does not exist.

"Our clients are grateful for the Superior Court's unanimous opinion and affirmance of the judgment," attorneys for the plaintiff said in a joint statement. The plaintiffs' team consisted of Gilman & Bedigian's E. Merritt Lentz and H. Briggs Bedigian, and Kline & Specter's Charles Becker, Shanin Specter and Andra Laidacker.

HUP's [challenge](#) to the 2023 verdict in *Hagans v. Hospital of the University of Pennsylvania* was based in part on the assertion that plaintiff Dajah Hagans had pursued an unrecognized legal theory of "team liability" to support her claim that HUP was responsible for injuries her son J.H. sustained during the delivery process.

The hospital contended that, in order to support a vicarious liability finding against HUP, the plaintiff would have had to prove that HUP's agents or employees had been negligent. But the jury reached its verdict against HUP without being asked to determine the liability of any individual HUP agents. HUP, represented by the Tucker Law Group and Lamb McErlane, argued that it could not be held vicariously liable because the jury had not found its agents liable.

However, the Superior Court held that the plaintiff established the HUP agents' negligence as required.

The plaintiff "did that through the expert testimony and other evidence presented," the Superior Court ruled. "The jury did not need to make an express finding as to each individual defendant, particularly where HUP focused its argument and testimony on how the employees worked as a team."

The panel concluded that the trial court had been correct to [deny the defendant's bid](#) for judgment notwithstanding the verdict. The appeals court also rejected various other challenges the defendants brought against the verdict, including arguments that the verdict slip misstated Pennsylvania law on causation and that the jury's award was excessive.

The individual defendants in the case, represented by Post & Schell, had also sought to challenge the judgment, but the Superior Court quashed their appeal for lack of standing in a separate [opinion](#) also entered Thursday.

Karyn Rienzi, co-chair of Post & Schell's appellate department, did not respond to a request for comment.

Lamb McErlane appellate department co-chair Maureen McBride said in a statement that HUP was disappointed by the Superior Court's ruling and is evaluating next steps.

"We continue to believe that the verdict against the hospital is legally unsupported because Pennsylvania law does not recognize 'team liability' and instead requires that vicarious liability be based on the negligent acts of a specifically identified agent," McBride asserted. "In this case, the plaintiff sued the individual providers but failed to obtain a finding of liability against them. We believe that this failure, as well as the erroneous jury verdict slip that conflicted with the jury instructions on the issue of causation, required the grant of judgment notwithstanding the verdict or a new trial."

In the underlying case, plaintiff Hagans alleged that HUP mishandled the delivery of her son, J.H., leaving him with spastic quadriplegic cerebral palsy and developmental delays. The plaintiff asserted that J.H. would require ongoing care for the rest of his life as a result of his injuries.

The jury [awarded](#) the plaintiffs \$182.7 million in April 2023, with the verdict comprising approximately \$101 million for future life care costs, \$1.7 million in future loss of earnings, and \$80 million in noneconomic damages. The plaintiffs then successfully moved for delay damages, adding \$24.9 million to bring the total judgment to \$207.6 million.

The jury's award in *Hagan* was Pennsylvania's largest-ever reported medical malpractice verdict, and HUP's appeal garnered amicus backing groups including the Hospital and Healthsystem Association of Pennsylvania, the Pennsylvania Coalition for Civil Justice Reform and the American Medical Association.

The plaintiffs' attorneys said their clients "look forward to receiving the compensation awarded by the jury to provide for J.H.'s long-term care and otherwise remedy his catastrophic injuries."