

Medical Experts Failure to Detect Malfunction Results in Child's Death

Lance Block and James Gustafson recently resolved a medical negligence case involving the wrongful death of 10-year-old L.H., who died as a result of an untreated shunt malfunction, for \$2.5 million.

L.H. had cerebral palsy and hydrocephalus due to a brain bleed at birth. Hydrocephalus is an excess accumulation of cerebral spinal fluid (CSF) within the skull. The excess fluid has no avenue of escape, which causes an increase in intracranial pressure. If untreated, it can lead to death. Treatment for this condition usually consists of the surgical placement of a ventriculo-peritoneal shunt, a device that drains the excess fluid from the ventricles in the brain to the peritoneum, or abdominal cavity, thereby restoring a normal amount of CSF within the skull. L.H.'s initial shunt was implanted when she was just a few days old, and there was a revision several years later.

However, shunts can malfunction, and healthcare providers must presume the worst when confronted with the signs and symptoms of shunt malfunction. Symptoms of shunt malfunction include severe headache, nausea, vomiting, lethargy, sleepiness, difficulty walking, and abnormal behavior. A child that presents with symptoms of shunt malfunction requires immediate evaluation. The work-up includes a CT scan of the brain and a series of plain x-rays the length of the shunt. An increase in the size of the ventricles of the brain, where CSF emits

from the brain, or evidence of an obstruction or disconnection of the shunt, should be cause for intervention. Only a neurosurgeon is qualified to rule out and treat shunt malfunction after an appropriate work-up is completed.

In the L.H. case, her mother took her to the pediatrician's office on a weekday morning after she had three episodes of vomiting and complained of headaches, nausea and sleepiness. In the doctor's waiting room, L.H.'s symptoms persisted. She vomited one time while waiting for the doctor, and continued to complain of headaches and a "stiff" neck. After her examination, the pediatrician noted in the medical records, "Need to rule out shunt malfunction with history of headaches/emesis." The pediatrician ordered a shunt series and CT scan, all to be performed on a stat basis, and sent L.H. to the hospital across the street. The studies were interpreted by a radiologist, who reported an abnormal CT scan with enlarged ventricles, evidence of excess accumulation of CSF. However, the radiologist did not emphasize the degree of ventricular enlargement nor did she communicate other signs of life-threatening CSF build-up. And while the shunt series did not reveal an obstructed or disconnected shunt, the x-ray was not conclusive that the shunt was working properly. Nevertheless, the pediatrician concluded that L.H.'s condition was not life threatening. So she decided not to refer L.H. to a neurosurgeon and simply instructed the family to return

home and either call her back or "go to the ER" if the child's symptoms did not improve.

No more than three hours passed before L.H.'s mother called the pediatrician, advising the doctor that L.H. was again complaining of headaches and was having difficulty taking liquid Advil. Rather than referring L.H. to a neurosurgeon or advising her to go to an emergency department, the pediatrician instructed L.H.'s mother to administer suppositories. After following the pediatrician's instructions, L.H.'s parents made a bed for her in the living room so they could all sleep in the same room and be close to L.H. throughout the night. When L.H.'s parents awoke the next morning, they found their daughter dead in her bed.

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Plaintiff's liability witnesses included world renowned experts in pediatrics, neuroradiology, neurosurgery, and neuropathology. The standard of care experts all testified that a pediatrician is not qualified to rule out shunt malfunction, and that the pediatrician's failure to obtain a neurosurgical evaluation for L.H. was a departure from the standard of care. Additionally, experts in neuroradiology testified that the radiologist was negligent **Continued on next page.**

Firm and Attorneys Receive Honors from Legal Guide

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for not clearly reporting her findings as to L.H.'s hydrocephalus, and for failing to diagnose and report the presence of periventricular resorption of CSF, a diagnostic clue of shunt malfunction and excess accumulation of CSF.

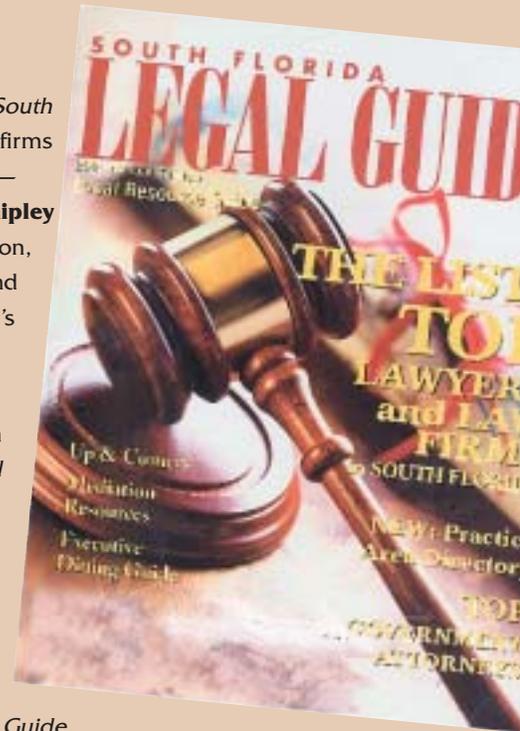
Although there were no economic damages that could legally be claimed, L.H.'s parents were devastated by the loss of their 10-year-old daughter. While L.H. was disabled and had special needs, she was mainstreamed in school, was popular among her friends and in her community, and was a source of pride and inspiration to her parents and younger brother. According to psychiatric experts on grief and bereavement related illnesses, L.H.'s parents both suffer from depression and post-traumatic stress disorder as a result of the sudden and unexpected death of their daughter. The experts testified that their grief was further complicated because L.H. suffered excruciating pain and distress before she died, which they witnessed, and that from the parents' perspective, L.H.'s death was unjust and preventable if only reasonable medical care had been provided. Further compounding the parents' grief were defense arguments that they were comparatively negligent for not calling L.H.'s neurosurgeon and for not taking L.H. to an emergency department after they had called the pediatrician.

The case was settled with both defendants at mediation shortly before the scheduled trial date. ■

The law firm of **Searcy Denney Scarola Barnhart & Shipley** was selected by the *South Florida Legal Guide* as one of the top law firms in the area. Three of the firm's attorneys — **Chris Searcy, Greg Barnhart** and **John Shipley** — were selected as top lawyers. In addition, attorneys **Sean Domnick, Karen Terry,** and **Harry Shevin** were selected for the *Guide's* "Up & Comer" category.

According to a recent article in the south Florida *Sun-Sentinel*, the attorneys listed in the 2004 edition of the *South Florida Legal Guide* "earned their placement as a result of gaining top nods from their peers in anonymous balloting held this spring...." Questions on the two-page ballot asked respondents whom they would recommend to a family member."

Lawyers listed in the *South Florida Legal Guide* do not pay a fee to be included in the edition. ■



Chris Searcy



Greg Barnhart



John Shipley



Sean Domnick



Karen Terry



Harry Shevin