

[Cite as *Keller v. Univ. of Toledo Med. Ctr.*, 2019-Ohio-2618.]

JESSICA KELLER

Plaintiff

v.

UNIVERSITY OF TOLEDO MEDICAL
CENTER

Defendant

Case No. 2016-00688JD

Judge Patrick M. McGrath

DECISION

{¶1} Plaintiff Jessica Keller's (Ms. Keller) complaint asserts a medical malpractice claim based on medical care Defendant University of Toledo Medical Center's (UTMC) employees rendered to plaintiff. Ms. Keller's claims are based primarily on the care rendered by Dr. Blair Grubb (Dr. Grubb) and Nurse Practitioner Beverly Karabin (Nurse Karabin). Ms. Keller tried her claims to the court on February 25-27, 2019. As discussed below, the court finds UTMC is entitled to judgment in its favor.

{¶2} At trial, Ms. Keller, Dr. Grubb and Nurse Karbin all testified regarding Ms. Keller's condition as well as her treatment at UTMC. In addition, both parties presented expert testimony. Dr. Mithilesh Das (Dr. Das) testified in Ms. Keller's case in chief while Dr. Satish Raj (Dr. Raj) testified on behalf of UTMC. In addition, the parties presented the testimony of other treating physicians who rendered care to Ms. Keller, Dr. Ian Elliott (Dr. Elliott) and Dr. Jackie Vannuyen, via deposition.

Findings of Fact

{¶3} The court makes the following factual findings. POTS is an acronym for Postural Orthostatic Tachycardia Syndrome. Upon standing, POTS patients retain fluid in their lower bodies which leads to a variety of symptoms. POTS is not a specific disease. It is a clinical syndrome, a constellation of symptoms primarily characterized by difficulty upon standing from a reclining position and a rapid increase in heart rate. Those with POTS feel dizzy, light-headed and/or nauseous. POTS patients can suffer

from headaches, vomiting and fainting and often have difficulty tolerating exercise. POTS can be secondary to other underlying medical conditions such as adrenal insufficiency.¹ POTS can also precede the diagnosis of other medical conditions, such as multiple sclerosis. A tilt table test is routinely used to help diagnose POTS. It involves securing a patient to a table which is then inclined to a 60-degree angle, during which the patient's vital signs are monitored and any symptoms are observed.

{¶4} The cause of POTS in an individual patient is not always clear. Treatment for POTS varies and includes medication, exercise programs, and the use of compression garments. POTS patients can experience symptoms for months and even years with minimal improvement. It is not uncommon for POTS patients to make frequent visits to the emergency room after being diagnosed and treated. Even for those who experience improvement, symptoms can fluctuate over time. Even with effective treatment, few patients become completely asymptomatic. Pregnancy can exacerbate POTS symptoms and presents additional challenges in treating patients for POTS.

{¶5} After a referral, Ms. Keller first presented to UTMC with nausea, vomiting and dizziness on September 16, 2014 at which time Nurse Karabin diagnosed Ms. Keller with POTS. Nurse Karabin made her diagnosis based on Ms. Keller's symptoms, the results of a tilt table test, and her own clinical evaluation of Ms. Keller. Ms. Keller's symptoms were consistent with POTS. After her initial diagnosis, Ms. Keller returned to UTMC on October 28, 2014, at which time Dr. Mujeeb Sheikh (Dr. Sheikh) treated her. After the October visit, Ms. Keller did not return to UTMC until April 14, 2015. During the nearly six-month gap between these appointments, Ms. Keller became pregnant.

¹The parties used the terms adrenal insufficiency and Addison's disease synonymously at trial. The court uses the former term only for simplicity's sake.

Ms. Keller saw Dr. Sheikh at this visit. Thereafter, Ms. Keller saw Nurse Karabin on June 3 and June 23, 2015. Dr. Grubb saw Ms. Keller only once, on July 16, 2015. This was Ms. Keller's last appointment at UTMC before she gave birth in December of 2015. No one at UTMC tested Ms. Keller for adrenal insufficiency.

{¶6} Throughout this time, Nurse Karabin, Dr. Sheikh and Dr. Grubb continued to treat Ms. Keller for POTS and she continued to experience POTS-like symptoms and make frequent emergency room visits. The records of Ms. Keller's June 23, 2015 visit with Nurse Karabin reflect some improvement as they note, "[Ms. Keller] is relatively stable. Blood pressure has improved. She has responded well to not only the midodrine and fludrocortisone, but also the daily IV infusions." During this time, Ms. Keller's medications were modified at times through the addition of IV fluids by Nurse Karabin and the prescribing of a nasal spray by Dr. Grubb. However, Ms. Keller could not keep her medication down due to vomiting and she declined to use the nasal spray medication prescribed by Dr. Grubb.

{¶7} In January of 2016, Dr. Elliott diagnosed Ms. Keller with adrenal insufficiency. Symptoms of adrenal insufficiency are similar to the symptoms of POTS. Patients can suffer from adrenal insufficiency and POTS at the same time. After treatment of Ms. Keller's adrenal insufficiency, Ms. Keller's symptoms ceased. Ms. Keller returned to UTMC on January 20, 2016, at which time Nurse Karabin removed the POTS diagnosis. However, the date of onset of Ms. Keller's adrenal insufficiency is unknown.

Conclusions of Law

{¶8} Ms. Keller bore the burden of proving her claim by a preponderance of the evidence. As stated in *Brothers v. Morrone-O'Keefe Dev. Co., LLC*, 10th Dist. No. 06AP-713, 2007 Ohio 1942, 2007 Ohio App. Lexis 1762, ¶ 49: "[a] preponderance of

the evidence is ‘the greater weight of the evidence * * * [it] means evidence that must more probable, more persuasive, or of greater probative value.’”

{¶9} The failure to diagnose a condition can serve as a basis for finding medical malpractice “if a given set of circumstances would lead a physician of ordinary skill, care and diligence to reach a particular diagnosis” and the physician’s failure “proximately causes injury to the patient. *Katko v. Ohio State Univ. Hosp.*, 10th Dist. No. 90AP-1117, 1991 Ohio App. LEXIS 3747, at *14 (Aug. 6, 1991). As stated in *Reeves v. Healy*, 192 Ohio App.3d 769, 2011-Ohio-1487, ¶ 38 (10th Dist.):

To establish a cause of action for medical malpractice, the plaintiff “must show the existence of a standard of care within the medical community, breach of that standard of care by the defendant, and proximate cause between the medical negligence and the injury sustained.” *Deer v. River Valley Health Sys.*, 4th Dist. No. 00CA20, 2001 Ohio 2662, quoting *Taylor v. McCullough-Hyde Mem. Hosp.* (1996), 116 Ohio App.3d 595, 599, 688 N.E.2d 1078. Expert testimony is required to establish the standard of care and to demonstrate the defendant’s alleged failure to conform to that standard. *Bruni v. Tatsumi* (1976), 46 Ohio St.2d 127, 130-31, 346 N.E.2d 673. Failure to establish the standard of care is fatal to a prima facie case of medical malpractice. *Id.* at 130.

Likewise, competent expert testimony is also required to establish that the medical negligence at issue was the direct and proximate cause of injury. *Corwin v. St. Anthony Med. Ctr.*, 80 Ohio App. 3d 836, 840 (10th Dist. 1992). Medical experts must express their “opinions in terms of a reasonable degree of medical probability.” *Reinhardt v. Univ. of Cincinnati Med. Ctr.*, 10th Dist. No. 94API04-603, 1994 Ohio App. LEXIS 5554, at *15 (Dec. 13, 1994).

Decision

{¶10} The court finds plaintiff did not prove that Ms. Keller had adrenal insufficiency during the time of her treatment at UPMC from September 16, 2014 to July 16, 2015. While Dr. Elliott testified Ms. Keller had adrenal insufficiency for months by

the time he began treating Ms. Keller in January of 2016, he did not specify the number of months. He did not testify that Ms. Keller had adrenal insufficiency when she saw Dr. Grubb on July 16, 2015, which was six months before she began treating with Dr. Elliott. In addition, Dr. Elliott did not offer any of his opinion in terms of a reasonable degree of medical probability. Further, Dr. Grubb testified it is possible that Ms. Keller had adrenal insufficiency during the time she received treatment at UTMC but it is also possible she did not. Dr. Raj testified that it is impossible to know when Ms. Keller's adrenal insufficiency began. The greater weight of the evidence established that it is unknown if Ms. Keller's adrenal insufficiency began during her treatment at UTMC from September of 2014 until July of 2015.

{¶11} Ms. Keller failed to prove that she had adrenal insufficiency during the relevant time and, therefore failed to prove that the same should have been diagnosed. Consequently, the Court finds that Ms. Keller did not meet her burden to demonstrate: 1) UTMC employees breached the standard of care in failing to test for or diagnose adrenal insufficiency; and 2) that the failure to test for or diagnose adrenal insufficiency proximately caused any injury. This finding alone merits judgment in defendant's favor.

{¶12} However, the court also finds plaintiff failed to prove that the treatment Ms. Keller received at UTMC for POTS violated the standard of care. All medical witnesses consistently testified that Ms. Keller's symptoms were characteristic of POTS and that Ms. Keller met the diagnostic criteria for POTS. In fact, plaintiff's expert Dr. Das testified that Ms. Keller's initial diagnosis and treatment were reasonable and that he had no issue with the initial diagnosis and treatment of POTS. Instead, he testified the standard of care required reevaluation of Ms. Keller's condition after 3-6 months. Thus, it is undisputed that any care Ms. Keller received during her first visit to UTMC in September of 2014 and her second visit in October of 2014 met the standard of care.

{¶13} This leaves only plaintiff's treatment in April, June and July of 2015 at issue, four visits to UTMC in total. Dr. Das testified that Nurse Karabin and/or Dr. Grubb

violated the standard of care in failing to reevaluate Ms. Keller within 3-6 months of her initial POTS diagnosis because her symptoms did not improve. Defendant's expert, Dr. Raj, testified that UPMC's treatment of Ms. Keller for POTS, comported with the standard of care primarily because it was not uncommon for POTS patients to present as Ms. Keller did with lots of nausea and vomiting. Both Dr. Grubb and Dr. Raj testified that the standard of care did not require testing for adrenal insufficiency and Dr. Raj also testified that the standard of care did not require medical personnel at UPMC to rule out adrenal insufficiency before diagnosing Ms. Keller with POTS. In fact, Dr. Grubb testified that, in 30 years of clinical practice, he has never had a patient test positive for adrenal insufficiency.

{¶14} As part of his opinion that UPMC employees should have reevaluated Ms. Keller. Dr. Das pointed to the fact that Ms. Keller's blood pressure did not rise despite being prescribed midodrine. However, Dr. Raj explained that midodrine does not always raise blood pressure, especially at starting doses and that the lack of a rise in blood pressure when using midodrine did not require reconsideration of the diagnosis of POTS. The court finds that plaintiff's expert, Dr. Das' testimony is entitled to less weight than that of defendant's expert, Dr. Raj.

{¶15} In the court's view, Dr. Das offered a somewhat inconsistent opinion on the standard of care and whether the treatment of Ms. Keller comported with the standard of care during this time. Despite opining regarding the need for reevaluation within months, he also testified that POTS patients can take 3-4 years to improve and that there is usually not a "dramatic response" with any medicine used to treat POTS. Dr. Das further indicated it is hard to treat pregnant POTS patients and that the first trimester for POTS patients is difficult and that they often feel worse and experience more nausea than usual.

{¶16} In addition, Dr. Das was not as qualified, and therefore not as credible, as Dr. Raj or Dr. Grubb. Dr. Das treats around 30-40 patients a year for POTS. He is not involved in POTS research and does not write on the subject. In contrast, Dr. Raj treats 70-80 patients a year, conducts research on POTS, and writes on the subject. Dysautonomia international, a patient advocacy organization with an emphasis on POTS, named Dr. Raj its physician of the year in 2014. Dr. Grubb won this same award in 2015 and sees 1,500 to 2,000 POTS patients a year.

{¶17} Further, Dr. Das admitted that his opinion regarding the standard of care has changed during the course of litigation. Though Dr. Das originally opined that the standard of care was violated because no one at UTMC performed a complete endocrine workup on Ms. Keller, he later changed his opinion and became critical, not of the original diagnosis of POTS, but of the failure to reevaluate Ms. Keller after 3-6 months with no improvement. In the court's view, Dr. Das' change-of-heart lessens his credibility and the strength of his opinion.

{¶18} There is no dispute that Ms. Keller's symptoms were consistent with POTS. The fact that Ms. Keller continued to be symptomatic and showed minimal improvement is typical of POTS patients who can suffer with symptoms for years. Further, after her October 2014 appointment, Ms. Keller did not return to UTMC for almost six months and until after she became pregnant and all of the medical witnesses agree pregnancy is a confounding factor in assessing and treating POTS patients. Nurse Karabin testified Ms. Keller's pregnancy itself caused reevaluation of her symptoms in light of the pregnancy as well as reevaluation of the safety of her medications. Yet, Ms. Keller showed signs of improvement in June. It would have been difficult to evaluate the effectiveness of medication Ms. Keller either could not keep down or refused to take. Yet, modifications to her medication regiment were made. The greater weight of the evidence, including the facts of Ms. Keller's treatment and the expert testimony, established that Mr. Keller's treatment for POTS met the standard of care.

{¶19} For the reasons stated above, the court finds Ms. Keller did not prove her medical malpractice claim by a preponderance of the evidence and that UTMC is entitled to judgment in its favor.

PATRICK M. MCGRATH
Judge

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JUDGMENT ENTRY

{¶20} This case was tried to the court on the issues of liability and damages. The court has considered the evidence and, for the reasons set forth in the decision filed concurrently herewith, judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

PATRICK M. MCGRATH
Judge

Filed May 1, 2019
Sent to S.C. Reporter 6/28/19