[Cite as Hughes v. Ohio Dept. of Public Safety, 2005-Ohio-7016.]

IN THE COURT OF CLAIMS OF OHIO

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JENN:	IFER HUGHES	5,	et	6	al.	•				:												
	Plaintiffs									: CASE NO. 200 Judge J. Cra												
	v.									:		. TT		IME	יזאי	וח	יזאיב	ΓRΥ				
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	Defendant	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:				

 $\{\P 1\}$  On April 7, 2005, the court held a pretrial conference during which defendant admitted liability with regard to the motor vehicle accident that is at issue in this case.

 $\{\P 2\}$  Plaintiff, Jennifer Hughes, was injured on December 1, 2003, when the vehicle that she was driving was impacted from the rear by a patrol car driven by a State Highway Patrol trooper.<sup>1</sup> On November 10, 2005, the case was tried to the court on the issue of damages. Plaintiffs presented their own testimony and exhibits; however, they did not present any expert medical testimony. Defendant presented the testimony of Stephen J. DeVoe, M.D., who is board-certified in obstetrics and gynecology.

 $\{\P 3\}$  The evidence established that plaintiff was 36 years old and approximately six or seven weeks pregnant at the time of the accident. Plaintiff was transported to a local hospital and treated for injuries to her left knee, back, and buttocks. She

<sup>&</sup>lt;sup>1</sup>John Hughes, Jennifer Hughes' husband, also alleges a claim for loss of consortium. For the purposes of this decision, "plaintiff" shall refer to Jennifer Hughes.

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subsequently received further treatment and physical therapy for those injuries which were resolved within a few months.

 $\{\P 4\}$  Plaintiff was also directed to see her obstetrician as soon as possible. The day after the accident, plaintiff did see obstetrician, Dalibor Hradeck, M.D., because her she was experiencing vaginal bleeding. As a part of his examination, Dr. Hradeck used an ultrasound to determine the size of plaintiff's gestational sac; he also checked the level of "pregnancy hormone" known as HCG. The tests were repeated on December 5, 2003. According to Dr. Hradeck, the measurements were abnormally low given the stage of plaintiff's pregnancy. On December 12, 2003, Dr. Hradeck was unable to detect a fetal heart rate and he determined that a miscarriage had occurred. On December 13, 2003, Dr. Hradeck performed a dilation and curettage procedure on plaintiff.

{¶5} Dr. DeVoe testified that "the vast majority" of miscarriages in women in their late thirties are caused by chromosome abnormalities in the embryo or fetus. Dr. DeVoe explained that the measurement of HCG and gestational sac size are both standard methods to assess the viability of a fetus. According to Dr. DeVoe, plaintiff's medical records show that her abnormally low HCG level increased slightly between December 2 and 5 and that such readings indicate that the pregnancy was failing in a manner that is typical of early miscarriages. Dr. DeVoe opined that plaintiff's pregnancy was failing prior to the December 1, 2003, accident.

 $\{\P 6\}$  Based upon the testimony and evidence, the court finds that the December 1, 2003, vehicle collision was not a proximate cause of plaintiff's miscarriage.

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{¶7} Plaintiffs also presented evidence of unreimbursed expenses incurred and wages lost as a result of the accident. The court finds that plaintiffs are entitled to damages for the unreimbursed expenses and for Jennifer Hughes' lost wages; however, they are not entitled to damages for John Hughes' wage loss. Based upon the totality of the evidence, plaintiffs shall be awarded the following damages:

 $\{\P 8\}$  1)Non-economic damages, which include, but are not limited to, pain and suffering in the amount of \$9,752;

{¶9}2)Special damages in the amount of \$4,748;

 $\{\P \ 10\}$  3)Loss of spousal consortium in the amount of \$500.

{**¶11**} Accordingly, judgment is hereby rendered in favor of plaintiffs in the amount of \$15,025, which includes the \$25 filing fee paid by plaintiffs. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

J. CRAIG WRIGHT Judge

Attorney for Plaintiffs

Entry cc:

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AMR/cmd Filed December 5, 2005 Case No. 2004-06178 -4- JUDGMENT ENTRY

To S.C. reporter December 29, 2005