

3 Million

Hilson v. Hofe
Wayne County Circuit Court, #02-043064-NO
Wrongful Death.....page B2

(tie)

2 Million

Bayne Oakland Contracting, Inc. v. City of Garden City, et al.
Wayne County Circuit Court, #00-024745-CZ
Breach of Contract; Fraudulent Inducement....
.....page B2

(tie)

2 Million

Whishem v. Bazzi, et al.
Wayne County Circuit Court, #00-011717-NI
Wrongful Death.....page B3

Top 10 Roundup

.....page B4-B5

The Top 5 Settlements

4.9 Million

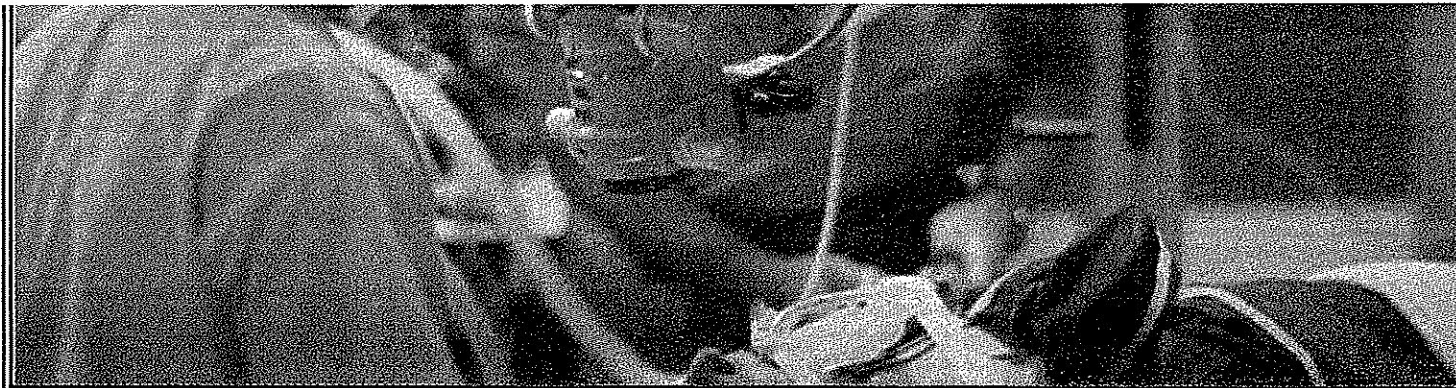
United States v. Commodities Export, et al.
U.S. District Court, Eastern District of Michigan,
CV-75495-DT
Conviction.....page B9

1.8 Million

Whishem, et al. v. Marathon Oil, Inc.
Wayne County Circuit Court, #99-940648-NZ
Class Action.....page B9

0.61 Million

*Whishem, et al. v. Ford Motor Company, and
Whishem, et al. v. Ford Motor Company (con-*



'Simple Surgery' Ends With \$22.5M Verdict

Impeachment Of Defense Experts Was Key

BY KAREN M. POOLE

What started as a "simple surgery" to alleviate expectant mother Evelyn Blazo's wrist pain resulted in the premature delivery of her twins — and a \$22.5 million verdict awarded 15 years later.

Detroit attorney Brian J. McKeen represented the plaintiff, and this year's verdict represents the second time McKeen has nabbed the number one spot in Lawyers Weekly's annual "Largest Verdicts & Settlements" issue.

Last year, McKeen posted the highest-reported verdict with his \$55.6 million verdict in *Hall v. Henry Ford Health System, et al.*

McKeen credits his successful track record with thorough preparation.

"It's just knowing the facts and studying up on the defendants' experts, familiarizing yourself with testimony provided in other cases which we used to effectively impeach them on several critical points," McKeen explained.

For example, McKeen impeached one expert who testified that irregular contractions do not lead to labor. He pointed to a previous case in which the same expert admitted that irregular contractions *do* dilate the cervix and result in labor.

McKeen also successfully challenged a nursing expert who indicated that the nurse who examined Blazo was just following the on-call doctor's orders when she concluded no further treatment was warranted.

"Basically, the hospital said they told her doctor or the doctor's fill-in what was going on and that it was up to him to decide if he

wanted to come in and keep her in the hospital," McKeen said. "But the doctor said to send her home."

McKeen presented evidence that, in situations like this, nurses should know better and follow a so-called chain of command.

"If a nurse sees something that is not right, she is supposed to report it to the attending physician," McKeen asserted. "If the attending physician does not act responsibly, the nurse is supposed to go to a higher up — to the chief of staff, the physician on call, or the charge nurse or whoever their own hospital's chain of command policy happens to name. She shouldn't have just blindly followed his instructions."

Moreover, McKeen said he "found testimony of their nurse from another case that this 'chain of command' was a standard of care way back at the time of this delivery."

'Necessary' Surgery?

In March 1987, Evelyn Blazo visited a

doctor complaining of wrist pain.

Although the doctor could not help but notice Blazo was pregnant, he ordered immediate carpal tunnel surgery without attempting less invasive treatment. Carpal tunnel-like symptoms are common during pregnancy and can abate soon after delivery.

Surgery was performed at defendant McLaren Regional Medical Center on April 9, 1987. Blazo had taken nothing by mouth since 8 p.m. the day before, including water. Dehydration and stress are known labor inducers.

During surgery, Blazo began experiencing contractions. She was too frightened to say anything at the time.

The contractions continued after surgery. Blazo told a nurse in the recovery room, who then timed the contractions at three to four minutes apart. The nurse performed a pelvic exam and found the cervix "long and thick," leading her to conclude that Blazo was not in labor. According to the nurse, roughly 20 minutes later Blazo's contractions became irregular. Blazo was not connected to an electronic fetal monitoring device.

The nurse then called Blazo's obstetrician. The obstetrician was not available, but the doctor on call, upon hearing the nurse's report, said Blazo could go home. The doctor did not perform his own examination.

Blazo went home that day.

When she awoke the next morning, her membranes were protruding. She immediately went to the hospital where an emer-

1

\$22.5 MILLION

BLAZO v. MCLAREN REGIONAL
MEDICAL CENTER, ET AL.

Genesee County Circuit Court, #01-
070664-MH, 01-070663-NH

Date of verdict: Dec. 17, 2002

■ CONTINUED ON PAGE B8

FOIA requests, presuit, led to the discovery of the existence of the CCCM, its decade-long relationship with the state, the trail signing criteria, and the contracts which established its li-

Attorney for the defendant: Withheld
Insurance carrier(s): Citizens Insurance Company

'Simple Surgery' Ends In Premature Births, \$22.5M Verdict

■ CONTINUED FROM PAGE B1

gency cesarian section was performed because one of the babies was in a breach position and rupture of the membranes was imminent.

The Blazo twins, Todd and Tanya, were born on April 10, 1987 at 30 weeks gestation. As a result of the premature delivery and the host of problems that accompany premature birth, Todd and Tanya are mentally impaired. Tanya has an I.Q. of 52. Todd has an I.Q. of 48 and cerebral palsy.

Suit was filed in Genesee County Circuit Court. Some 15 years later, on Dec. 17, 2002, after a month of testimony, a jury granted the Blazo twins a more promising future when it returned the \$22.5 million verdict.

Just The Facts

According to McKeen, the message sent by the jury is that defendants should not force cases to trial without the facts to back them up.

"If you can't defend the case based on the facts, don't take the case to court," McKeen asserted. "If you have to resort to fictionalizing or making up facts to try to create a defense

where none exists that's going to fail. The defendants got caught up in the web of their own deceit."

McKeen said the biggest obstacle he had to overcome was making sure the jury understood that nurses have to think for themselves.

"A nurse is required to do more than just blindly adhere to what she is told by a physician," McKeen stated. "Nurses are medical professionals with medical training and expertise. They are required to bring that training and expertise to bear and know when a patient needs further evaluation."

Moreover, McKeen noted that defendants often engage in revisionist history so it's important to know your facts.

"The hospital came up with a B.S. story that after the nurse talked to the doctor the doctor gave the nurse three options: the patient could be transferred to Hurley [Medical Center] by ambulance, the patient could be

"The defendants got caught up in the web of their own deceit."

— Brian J. McKeen

admitted overnight for observation or she could go home and she chose to go home," McKeen said.

"However, that was not documented in the medical records," McKeen stated. "We focused on highlighting the fact that they tried to rein-

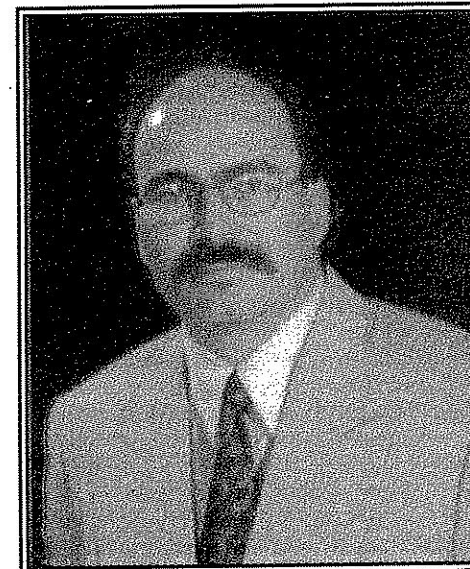
vent history. Based on the facts, the case was indefensible."

Know Your Medicine

Finally, McKeen said any attorney who wants to successfully handle medical malpractice actions must be familiar with medicine. McKeen has two medical professionals on his staff — an associate who is a trained nurse and a nurse-paralegal.

And, after 20 years of working in this area, McKeen said he's learned a thing or two.

"It's necessary to understand the legal issues," he said. "It requires a great deal of intensive study and learning over a period of time."



BRIAN J. MCKEEN
Top verdict two years in a row