

SUPREME COURT OF NOVA SCOTIA

Citation: McIntosh v. Isaac Walton Killam-Grace Health Centre,
2011 NSSC 260

Date: (20110712)

Docket: Hfx. No. 264101

Registry: Halifax

Between:

Lisa McIntosh

Plaintiff

v.

Isaac Walton Killam-Grace Health Centre For Children, Women and Families

Defendant

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Judge: The Honourable Justice Pierre L. Muise

Heard: October 18, 2010 to October 21, 2010, in Halifax, Nova Scotia

Written Decision: July 12, 2011

Subject: Torts - Negligence - Standard of Care and Causation

Summary: In March of 2000, Ms. McIntosh's first child was born in the IWK by caesarean section after a period of pushing in an attempt to deliver vaginally. Approximately 10 days later, she became aware of pain in the area of her left hip. She had not noted problems with her hip before that. In July of 2001, diagnostic imaging revealed loose fragments within the hip. In October of 2005, she underwent arthroscopic surgery, during which the fragments were removed and

other damage to her hip was noted, some of which was repaired. Her hip deteriorated to the point where she had it replaced in March of 2007. Ms. McIntosh alleged that the way her legs were handled, by the student nurse supporting them during attempted vaginal delivery, was in breach of the requisite standard of care and caused the damage and deterioration in her hip.

Issues: Did Ms. McIntosh establish that the student nurse failed to meet the applicable standard of care? Did the nursing student's actions cause the damage observed in Ms. McIntosh's hip and result in it deteriorating to the point where it had to be replaced?

Result: The standard of care was that expected of a registered nurse of average competence and ordinary skill facing the circumstances in question, as described by Ms. McIntosh's expert. The court did not accept Ms. McIntosh's description of how her legs were handled as being completely accurate. The chart notes confirmed the pushing was going well. The movement of the feet and the resistance applied to ensure correct leg positioning were within the applicable standard of care.

Ms. McIntosh failed to establish that the damage and deterioration in her hip were caused by the student nurse's actions. She failed to show that there was enough force applied. If the damage had been caused by trauma during pushing, more likely than not, it would have caused pain that she would have noticed immediately, and continued to notice, except during the 24 hours she was under the effect of the epimorphine administered in preparation for the caesarean section. She would not have had full range of motion in her hip when she saw the doctor 13 days after the delivery. She had a pre-existing shallow hip socket. People with that condition are more likely to develop osteoarthritis and degeneration requiring the hip to be replaced, without any intervening event. All the damage observed could arise as a result of such degeneration. The symptoms described by Ms. McIntosh were consistent with the normal progression of osteoarthritis in the hip. The cause of Ms. McIntosh's hip condition and deterioration was more likely to have been degenerative than traumatic.

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