

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

TIFFANY DIMAIO and ZACHARY DIMAIO,
administrators of the Estate of Ellie DiMaio,

Plaintiffs,

vs.

ANGELA DOROTHY HUGGLER, M.D.,
JANICE DREHER, C.N.M., LAURA MAXWELL-RANKIN, R.N.,
WILLIAMSPORT REGIONAL MEDICAL CENTER, THE
WILLIAMSPORT HOSPITAL, SUSQUEHANNA HEALTH,
SUSQUEHANNA HEALTH SYSTEM, SUSQUEHANNA
HEALTH MEDICAL GROUP, AND SUSQUEHANNA
HEALTH OB/GYN,

Defendants.

: NO. 16-0956

: CIVIL ACTION

: Five

: *Motions in Limine*

OPINION & ORDER

AND NOW, after argument was heard on January 8, 2019 regarding *Plaintiffs'*
Motions in Limine and Defendants' Motions in Limine, the Court finds the following:

1. *Plaintiffs' First Motion in Limine* is **DENIED**. Plaintiffs argue that the testimony of Defendants' five medical experts overlap and, therefore, some of the testimony should be excluded.¹ Specifically, Plaintiffs argue that: (1) the testimony of Pamala Kelly, RN/CNM, Michelle Kensey, RN, Joshua Holden, M.D., and Alexander Friedman M.D. is redundant as to the standard of care; and (2) Dr. Holden's, Dr. Friedman's, and Timothy P. Stevens, M.D.'s testimony overlap regarding causation. Conversely, Defendants argue that their five medical experts each possess a different medical specialty/subspecialty and different clinical backgrounds. Defendants note that the five medical experts and their specialties are:

- a. Joshua B. Holden, M.D. (OB/GYN);
- b. Alexander Friedman, M.D. (maternal fetal medicine);

¹ Pa.R.E. Rule 403.

- c. Pamela S. Kelly CNM (certified nurse midwife);
- d. Michelle Kensey, RN (obstetrical nurse);
- e. Timothy P. Stevens, M.D. (neonatologist).

Defendants note that Dr. Holden and Dr. Friedman focus on claims of liability asserted against Dr. Huggler, Defendant Hospital, and the obstetrical team; Midwife Kensey addresses the standard of care criticisms of Defendant Midwife Dreher and Nurse Maxwell-Rankin; and Nurse Kensey addresses the criticisms of Defendant Nurse Maxwell-Rankin. Dr. Stevens addresses only the medical causation and alleged cause of death, including Plaintiffs' expert's claim of meconium aspiration syndrome, and Dr. Friedman and Dr. Holden address medical causation and damages, including the timing and cause of the alleged fatal *in utero* injury. While Defendants admit that more than one expert opines on medical causation, it is because the analysis in this case spans *in utero* and post-delivery stages, which are treated by different physician specialties. To the extent that the experts reach similar conclusions about standard of care, causation or damages, it is corroborative testimony, not cumulative.

The Court agrees with Defendants. The Pennsylvania Superior Court has specifically held that medical experts in different disciplines who "reach the same conclusion[s]" are merely providing corroborative testimony.² Therefore, the Court will not exclude said testimony.

2. *Plaintiffs' Second Motion in Limine* is deemed **MOOT**. Defendants agreed at argument that any reference in Midwife Pamela Kelly, CNM's expert report or Nurse Michelle Kensey, RN's expert report that appears to opine on the standard of care, or causation, related to Defendant Dr. Angela Huggler, M.D. was inadvertent and

² See *Klein v. Aronchick*, 85 A.3d 487, 501 n.7 (Pa. Super. Ct. 2014).

Defendants would not be offering Midwife Kelly or Nurse Kensey as experts in this regard.³

3. *Plaintiffs' Third Motion in Limine* is deemed **MOOT**. Defendants agreed that Plaintiff Tiffany's alleged tobacco use before and during her pregnancy and the health of Plaintiff Tiffany's extended family would not be mentioned at trial. Likewise, Plaintiffs agreed that Defendants would be allowed to address alleged concerns of Plaintiff Tiffany's weight at trial. To the extent Plaintiff Tiffany's alleged allergy to prenatal vitamins is still at issue, the Court finds such a fact not prejudicial. Therefore, it is admissible at trial.

4. *Defendants' First Motion in Limine* is deemed **MOOT**. The parties agreed that all expert testimony would be limited to the fair scope of their expert reports in accordance with *Wilkes-Barre Iron & Wire Works, Inc. v. Pargas of Wilkes-Barre, Inc.*⁴

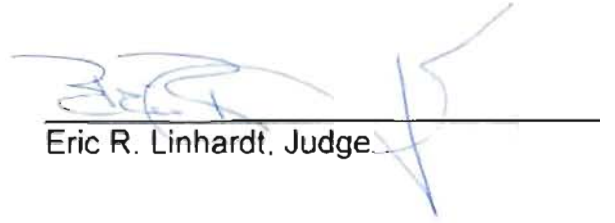
5. *Defendants' Second Motion in Limine* is deemed **MOOT**. Plaintiffs agreed that "as of" the day of the motion hearing, January 8, 2019, they did not intend on mentioning any other lawsuits involving Defendant Dr. Huggler, or any other Defendant, at trial. Plaintiffs further indicated that if that changed, they would notify the Court and defense counsel prior to the commencement of trial and the Court would issue a ruling at that time.

IT IS SO ORDERED this 14th day of January 2019.

³ At argument, Plaintiffs took specific issue with Ms. Kensey's statement that Dr. Huggler was "appropriately at the bedside or on the unit to organize and lead the care of Ms. Davis throughout her labor. . . ."

⁴ *Wilkes-Barre Iron & Wire Works, Inc. v. Pargas of Wilkes-Barre, Inc.*, 502 A.2d 210, 212-13 (Pa. Super. Ct. 1985)

BY THE COURT:



Eric R. Linhardt, Judge

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