

Anchin Alert

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Claim Dismissed Due to Lack of Determined Expertise

It is extremely important that the testifying expert is a technical expert in the field in which he or she is testifying with demonstrated work history.

In an article recently reported in the *New York Law Journal*¹, the plaintiff contended that the defendant doctors negligently failed to diagnose and treat their infant's medulloblastoma and negligently diagnosed the infant as having gastroesophageal reflux compounded with an anxiety disorder. Additionally, the plaintiffs argued that defendant, Mt. Sinai Medical Center, was vicariously liable for their malpractice in that it failed to use reasonable care in hiring and supervising the medical personnel involved in the infant's care and treatment.

The court granted the defendants' motion for summary judgment and dismissed the complaint, finding that the plaintiffs failed to raise a triable issue of fact. The court noted that the plaintiffs' expert, who is board certified in pediatrics and pediatrics hematology/oncology did not possess the knowledge necessary to render an opinion concerning the gastroenterological treatment administered to the infant by the defendant doctors.

The court added that while it could not be disputed that the plaintiff's expert is an expert in the field of pediatric cancer, there was nothing in the expert's affirmation indicating how the expert became familiar with the applicable standards of care in the particularized field of pediatric gastroenterology.

For more information, please contact Anthony Bracco, David Beckman, Margaret Kolb, Dennis Neier, or Raymond Dragon of Anchin's Litigation, Forensic and Valuation Services Group at 212.840.3456.

¹G.L. v. HARAWITZ, 156318-2-12 (JAN. 15)



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