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AND THE DEFENSE WINS

DRI Members Share Their Victories

K. Justin Hutton and Elizabeth Hutton

DRI members, **K. Justin Hutton** and **Elizabeth Hutton**, of the East Tennessee firm of Herndon, Coleman, Brading & McKee, LLP obtained a defense verdict on behalf of Pediatric Pulmonologist, Barbara Stewart, M.D, and her employer ETSU Physicians and Associates in Victoria Miller, individually and as personal representative of Estate of Rebekah Miller, deceased v. Medical Education Assistance Corporation d/b/a ETSU Physicians and Associates and Barbara Stewart, M.D. in the Circuit Court of Washington County, Tennessee in August of 2021. The Plaintiff alleged that Dr. Stewart failed to properly diagnose and treat Rebekah Miller, a six (6) month old child with pre-existing heart conditions, who presented to Dr. Stewart's office with complaints of respiratory distress. Shortly after being discharged from Dr. Stewart's office the child presented to the Emergency Department in respiratory distress, and despite heroic treatments she continued to deteriorate and ultimately passed away the following day. The defense alleged that Dr. Stewart's diagnoses and treatment of the child was appropriate with the information she had available to her at that time, but the child ultimately succumb to a rare, and in this case, fatal infection caused by Bordetella Bronchiseptica (Kennel Cough) that was undiagnosed at that time.

There were no settlement negotiations prior to trial. The Plaintiff asserted at trial that the child's mother was entitled to damages in the range of \$1.6 million to \$2.7 million for lost earning capacity for the child, and additional monies for pain and suffering and loss of consortium.

After seven days of trial, the jury returned a unanimous verdict in favor the defense.

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