

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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SHARI MUDROCH and JOHN MUDROCH, as  
Next Friends of JONATHAN MUDROCH, a minor,

UNPUBLISHED  
November 25, 1997

Plaintiffs-Appellees,

v

No. 198072  
Washtenaw Circuit Court  
LC No. 94-001101-NH

DR. JOHN O’SULLIVAN,

Defendant,

and

BRISTOL-MYERS SQUIBB COMPANY,

Defendant-Appellant.

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Before: Fitzgerald, P.J., and Markey and J. B. Sullivan\*, JJ.

PER CURIAM.

Defendant Bristol-Myers Squibb Company appeals as of right the trial court order denying summary disposition to defendant pursuant to MCR 2.116(C)(10) in this products liability action. We affirm.

Plaintiff<sup>1</sup> filed a products liability claim against defendant, the manufacturer of Nuprin. Plaintiff alleged that the Nuprin-brand ibuprofen that she took for two to three days to alleviate toothache pain late in the third trimester of her pregnancy<sup>2</sup> caused neurological damage to her son Jonathan’s brain and central nervous system. Plaintiff alleged that defendant failed to warn of the risks associated with ingesting ibuprofen during the third trimester of pregnancy. To support the claim, plaintiff offered the testimony of four expert witnesses. Defendant contends that the trial court abused its discretion in admitting the expert testimony as reliable evidence of “recognized scientific knowledge” and, absent such evidence, plaintiff failed to establish a genuine issue of material fact regarding causation. We disagree.

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\* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

Under the rules of evidence, the trial court is charged with ensuring that any and all scientific testimony to be admitted is not only relevant, but also reliable. *Amorello v Monsanto Corp*, 186 Mich App 324, 331-332; 463 NW2d 487 (1990). MRE 702 provides, in pertinent part, that if “recognized scientific . . . knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue,” then an expert “may testify thereto.” This Court recently addressed the issue of what constitutes “recognized scientific knowledge” for purposes of admissibility under MRE 702 in *Nelson v American Sterilizer Co (On Remand)*, 223 Mich App 485; 566 NW2d 671 (1997). This Court concluded that MRE 702 requires the trial court to determine whether the proposed testimony is derived from “recognized scientific knowledge” based on a finding that the proposed testimony contains “inferences or assertions, the source of which rests in an application of scientific methods,” and which are supported by appropriate objective and independent validation based on scientific and medical literature.” *Id.* at 491.

Here, plaintiff’s experts testified, and defendant agrees, that it is well-documented medical and scientific knowledge that ingestion of ibuprofen during the third trimester can cause both oligohydramnios (a reduction in the amount of amniotic fluid) and premature closure of the ductus arteriosus. The experts indicated that oligohydramnios and/or a constriction of the ductus arteriosus can have significant effects on the functioning of the brain, heart, kidneys, and possibly other organs of the fetus. Relying on the generally-accepted principle that ibuprofen in the third trimester can cause oligohydramnios and/or constriction of the ductus arteriosus, at least one expert applied her specific expertise and knowledge to the established facts to determine that Jonathan’s injuries could have been and likely were caused by either condition. Although medical literature does not specifically document a case in which injuries such as Jonathan’s were directly caused by a woman’s ingestion of ibuprofen in the third trimester of pregnancy, the methodology employed by the expert to reach a conclusion is sound and creates a trustworthy foundation for the conclusion reached. The evidence presented is reasonably reliable under MRE 702 and 703 and the guidelines set forth in *Nelson, supra*, and was properly admitted as evidence of causation. In light of such evidence of causation, the trial court properly denied defendant’s motion for summary disposition.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Jane E. Markey

/s/ Joseph B. Sullivan

<sup>1</sup> Use of the term “plaintiff” relies to Shari Mudroch.

<sup>2</sup> Plaintiff allegedly took ibuprofen on July 25 or 26, 1991, and continued to do so until July 27 or 28, or possibly one or two days later. Jonathan was born on August 1, 1991.