

Won a precedent-setting appeal in Minnesota affirming WTO's summary judgment victory in a \$30 million alleged birth injury case involving cranial compression ischemic encephalopathy (CCIE), a heavily disputed causation theory agreed to be "junk science" by the scientific and medical communities.

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A WTO team won a significant victory in the Minnesota Court of Appeals affirming WTO's January 2023 summary judgment award for an obstetrician-gynecological practice. The plaintiff asserted \$30 million in damages relating to an alleged birth injury purportedly caused by cranial compression ischemic encephalopathy (CCIE), a heavily disputed theory that plaintiffs' lawyers have had success with despite scientists' and physicians' assertions that CCIE amounts to "junk science." The WTO team successfully challenged the admissibility of the plaintiff's CCIE expert testimony and then won summary judgment.

The plaintiff appealed the district court's CCIE order and grant of summary judgment. Following WTO's briefing and argument, the Minnesota Court of Appeals unanimously affirmed the district court's finding that CCIE lacks foundational reliability generally, and as specifically applied to

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the plaintiff's case. The appellate court then found that the plaintiff had offered no admissible evidence to support an alternative causation theory and affirmed the district court's grant of summary judgment. A concurring opinion concluded that CCIE failed Minnesota's *Frye-Mack* test because it was a novel scientific theory that was not generally accepted in the relevant scientific community.

Summary judgment is rarely granted and affirmed in medical malpractice cases. The victory is also significant as a matter of first impression in Minnesota courts, and it will help defense attorneys nationwide defend against this "junk science."

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