

Possible juror misconduct involved

LITTLE ROCK, Ark. --Attorneys for parents suing Arkansas Children's Hospital over a wrong sided brain surgery abruptly halted the trial citing possible juror misconduct.

"We have concerns about the accuracy of statements made during the jury selection process leading us to believe there has been a possibility of juror misconduct," said attorney Phillip Duncan. "Because we have been unable to talk to jurors to get to the facts, we believe it is in the best interests of our clients to halt the trial at this point and consider refiling the suit at some point in the future," he said.

In Arkansas, plaintiffs who decide to end a trial may re-file the suit within one year for any reason.

The decision came a short time after a juror handed a note to the bailiff, who then passed it to the judge.

The trial concerns an operation where a surgery team at the hospital operated on both sides of 15-year-old Cody Metheny's brain (bilateral temporal lobectomies), leaving him brain injured. Surgery was only supposed to be performed on one side, but the surgeon began by operating on the wrong side.

In testimony, a hospital representative told the jury the hospital did not report to its accrediting agency (Joint Commission on Accreditation of Healthcare Organizations) that doctors had operated on the wrong side of a patient's brain "because our lawyers told us not to."

Pamela and Kenny Metheny, on behalf of Cody are suing the hospital and its insurance company alleging basic safety protocols meant to prevent wrong-sided surgery were ignored, and that the hospital did not inform the Methenys of the surgery team's errors.