



Premature birth after preeclampsia: \$23.1M verdict

WHEN A WOMAN SAW HER OBGYN on August 16 at 24 weeks' gestation, test results showed proteinuria and high blood pressure (BP). The following day, she was hospitalized for a 24-hour urine test and BP evaluation supervised by an on-call ObGyn and her ObGyn. Test results confirmed preeclampsia. She was released from the hospital. A few days later, she was found to have continued high BP and increased proteinuria, and restricted fetal growth was detected. On August 29 at 26 weeks' gestation, the baby girl was born with severe cystic periventricular leukomalacia by emergency cesarean delivery. She cannot perform basic tasks and will need 24-hour care for the rest of her life.

- ▶ **PARENT'S CLAIM:** The hospital staff and 2 ObGyns failed to timely diagnose and treat preeclampsia. The treating ObGyn neither prescribed medication to treat preeclampsia nor administered antenatal corticosteroids to enhance fetal lung and brain development, both of which should have been started on August 17. Hospital health care providers failed to transfer her to a Level III facility equipped to handle a premature birth of less than 33 weeks' gestation.
- ▶ **DEFENDANTS' DEFENSE:** The hospital and ObGyn denied negligence.
- ▶ **VERDICT:** Prior to trial, the mother settled with the on-call ObGyn for an undisclosed amount. A \$23.15 million Florida verdict was returned, apportioning 70% liability to the treating ObGyn and 30% to the hospital.

Suture found in bladder after hysterectomy

A 40-YEAR-OLD WOMAN underwent a hysterectomy due to dysmenorrhea. Despite the presence of blood in the catheter bag after the procedure, the surgeon did not consult a urologist or perform a cystoscopy. Later, when the patient reported urinary retention, urinary leakage, and dyspareunia, a urologist performed a cystoscopy and discovered a suture in the bladder wall and a vesicovaginal fistula.

- ▶ **PATIENT'S CLAIM:** During the procedure, the gynecologic surgeon inadvertently placed a suture in the bladder wall. The presence of blood in the Foley catheter required an immediate urology consult and cystoscopy,

during which the presence of the errant suture would have been discovered. Repair surgery then would have prevented subsequent injuries.

- ▶ **PHYSICIAN'S DEFENSE:** The surgeon used reasonable judgment, as there were explanations for the blood in the catheter due to a difficult catheter placement and lysis of bladder adhesions.
- ▶ **VERDICT:** A Michigan defense verdict was returned.

Shoulder dystocia, paralysis: \$950,000 settlement

DURING DELIVERY, shoulder dystocia was encountered. The ObGyn used maneuvers to release the shoulder and completed the delivery. The child

has a brachial plexus injury. Despite nerve graft surgery, her right arm, shoulder, and hand are paralyzed.

- ▶ **PARENTS' CLAIM:** The ObGyn failed to properly manage the delivery. Shoulder dystocia had been encountered during the delivery of a sibling, but the ObGyn failed to communicate the need for cesarean delivery in future pregnancies.
- ▶ **DEFENDANTS' DEFENSE:** There was no negligence. The case settled during trial.
- ▶ **VERDICT:** A \$950,000 California settlement was reached with the hospital and ObGyn.

Bowel injury during tubal ligation

A 40-YEAR-OLD WOMAN underwent laparoscopic tubal ligation using cauterization at an outpatient surgery center. Two hours after the procedure, her BP began to drop. She was promptly transferred to a hospital and underwent emergency surgery that revealed a bowel injury. Part of the patient's small intestine was resected.

- ▶ **PATIENT'S CLAIM:** The gynecologic surgeon committed a medical error when she injured the bowel during trocar insertion.
- ▶ **DEFENDANTS' DEFENSE:** The bowel injury was a known complication of the surgery.
- ▶ **VERDICT:** A Louisiana defense verdict was returned.

These cases were selected by the editors of OBG MANAGEMENT from Medical Malpractice Verdicts, Settlements, & Experts, with permission of the editor, Lewis Laska (www.verdictslaska.com). The information available to the editors about the cases presented here is sometimes incomplete. Moreover, the cases may or may not have merit. Nevertheless, these cases represent the types of clinical situations that typically result in litigation and are meant to illustrate nationwide variation in jury verdicts and awards.

Colon injured twice: \$1M settlement

A 59-YEAR-OLD WOMAN underwent laparoscopic total hysterectomy and salpingectomy. Her history included an umbilical hernia repair.

Two days after surgery, the patient experienced abdominal pain, chills, abdominal distention, and a foul-smelling discharge from her umbilical suture site. She went to the emergency department where a computed tomography scan revealed 2 injuries in the bowel. Emergency laparotomy included transverse colon resection and right colon colostomy with Hartmann's pouch. She wore an ostomy bag for 8 months. She developed an infection because of the colostomy and also required operations to resolve a bowel obstruction and repair incisional hernias.

► **PATIENT'S CLAIM:** The gynecologic surgeon was negligent when performing the surgery. When he inserted the Veress needle and trocar through the patient's umbilicus, the transverse colon was injured twice with a 3-cm anterior tear and a 1-cm posterior laceration. The injuries were not discovered during the procedure. He should have been more careful knowing that she had undergone prior umbilical hernia surgery.

► **PHYSICIANS' DEFENSE:** The case was settled before the trial began.

► **VERDICT:** A \$1 million Virginia settlement was reached.

Chronic pain after sling procedure: \$2M verdict

A 63-YEAR-OLD WOMAN reported urinary incontinence to her gynecologist, who performed a transobturator

midurethral sling procedure. After surgery, the patient experienced pelvic pain, urinary urgency, intermittent incontinence, and dyspareunia. She returned to the gynecologist twice. He performed a cystoscopy after the second visit but found nothing wrong.

The patient sought a second opinion. A gynecologic surgeon found a large mass in the patient's bladder consisting of a crystallized piece of tape that had been used to secure the sling supporting the bladder. The mass was removed and the patient reported that, although surgery alleviated many symptoms, she was not pain-free.

► **PATIENT'S CLAIM:** The gynecologist negligently inserted the end of the sling through one wall of her bladder and failed to detect the malpositioning during surgery or later. He failed to diagnose and treat bladder stones that resulted from the sling's malpositioning. He failed to perform a cystoscopy when she first reported symptoms and improperly performed cystoscopy at the second visit.

► **DEFENDANTS' DEFENSE:** There was no negligence on the part of the gynecologist. The patient did not report ongoing symptoms until 1 year after sling insertion.

► **VERDICT:** A \$2 million Pennsylvania verdict was returned.

Child has brachial plexus injury

A MOTHER WAS ADMITTED to the hospital shortly after her membranes broke. Meconium was detected but the fetal heart-rate (FHR) monitor results were normal. About 15 minutes after admission, she was seen by an attending ObGyn, who started

oxytocin to induce labor. FHR monitoring results were acceptable throughout the day, and by midafternoon, the mother was ready to deliver. A fetal baseline heart rate of less than 110 bpm was detected as staff prepared for the delivery. Less than an hour later, the baby's head crowned and the ObGyn quickly identified shoulder dystocia. Nurses repositioned the mother, the baby rotated, and was delivered. Apgar scores were normal despite a shoulder injury.

► **PARENTS' CLAIM:** The ObGyn caused the injury by using excessive force during delivery. After attempting gentle traction, the ObGyn should have changed strategies.

► **DEFENDANTS' DEFENSE:** The ObGyn asserted that she used gentle traction that prevented twisting or stretching the baby's nerves. The birth was normal and she followed all protocols, resulting in the birth of a cognitively intact baby, as evidenced by the child's Apgar scores. The baby was large and labor and delivery went very quickly, both factors that could have led to the baby's injuries. The ObGyn's actions did not cause the injuries.

► **VERDICT:** A Pennsylvania defense verdict was returned. 🗳️

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