

## Laparoscopy leads to sepsis, peritonitis, death

Queens County (NY) Supreme Court

A woman underwent laparoscopic surgery to determine the cause of her infertility. Some time later, she suffered sepsis and peritonitis that resulted in her death.

In suing, the decedent's family claimed the physician perforated the woman's sigmoid colon during the procedure. They further alleged that the patient should not have had laparoscopic surgery.

The physician argued that the procedure was indicated, and that perforations of this kind are known complications of the procedure.

- The case settled for \$1 million.

## Was hysterectomy for pelvic pain unnecessary?

Maricopa County (Ariz) Superior Court

A 28-year-old woman presented to a gynecologist with pelvic pain. She advised the physician that she had been diagnosed with endometriosis after the birth of her son 7 years prior. Medical records, however, indicated that she was diagnosed with endometritis.

The physician performed a pelvic examination and recommended a hysterectomy.



The patient underwent a hysterectomy and right salpingo-oophorectomy 2 weeks later.

A postoperative pathology report showed that the woman had a corpus luteum cyst on her right ovary, not endometriosis. Following the patient's discharge, she experienced pain and numbness on the outside of her right thigh. Six months

later, she was diagnosed with a lateral femoral cutaneous nerve injury.

In suing, the woman claimed that the physician should have performed a laparoscopy to rule out endometriosis, rather than recommend an unnecessary hysterectomy and right salpingo oophorectomy. Further, the patient claimed that the physician was negligent for injuring her lateral femoral cutaneous nerve. She also contended that the doctor failed to tell her of the pathology findings, and never informed her that she did not have endometriosis.

The doctor argued that the woman was given the option of a laparoscopy, but chose a hysterectomy. He further alleged that a lateral femoral cutaneous nerve injury is a known complication of a hysterectomy.

- The case settled for \$250,000.

## Woman develops necrotizing fasciitis after tubal ligation

Cook County (Ill) Circuit Court

A 49-year-old woman underwent a tubal ligation procedure. During the surgery, the patient's bladder was punctured, resulting in an infection in her abdomen. Soon thereafter, she developed necrotizing fasciitis. Despite the removal of much of her external genitalia and treatments to stop the spread of infection, the woman died 9 days after the initial surgery.

In suing, the family of the patient claimed that the doctors ignored signs of the bacterial infection for 4 days. They further argued that since a 49-year-old woman has less than a 1% chance of becoming pregnant, the tubal ligation should never have been performed.

The doctors denied negligence and claimed that a correct diagnosis was made.

- The jury awarded the family \$6.5 million.

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## Did delayed delivery of second twin cause cerebral palsy?

Kings County (NY) Supreme Court

A woman presented to a hospital for the delivery of twins. For most of the 20 hours prior to the first child's delivery, she was



cared for by nurses and first-year residents, and had continuous fetal monitoring. The first-year resident delivered the first twin vaginally in the presence of an attending physician. After the

first baby was born with slight meconium staining, the mother stopped having contractions. Oxytocin was then administered. The second twin was monitored every 3 to 4 minutes, and was noted to have a good fetal heart-beat. Approximately 42 minutes later, the defendant physician delivered the second infant. The child was blue at birth and hypotonic, with shallow breathing. While the first child had Apgar scores of 9 and 10, the second child's were 6 and 7. The second twin now suffers from cerebral palsy, has motor skill deficits in his hands and right arm, and uses a walker or wheelchair.

In suing, the mother claimed that the fetal strips showed decelerations for 2 hours before delivery of the first child. Therefore, the doctor should have performed a cesarean to deliver both twins. She further argued that had continuous rather than intermittent monitoring been used on the second twin, fetal distress would have been noted and the doctor could have performed a timely cesarean.

The obstetrician claimed that adequate supervision was provided and further alleged that intermittent monitoring was as reliable as continuous monitoring. He also noted that there were no signs of fetal distress and, therefore, no reason to perform a cesarean. In addi-

tion, the woman's pediatric neurologist testified on behalf of the physician, saying he believed the infant's brain damage took place in utero before the 35th week of gestation.

- The jury awarded the plaintiff \$61,662,500.

## Was cesarean indicated for baby with shoulder dystocia?

Monroe County (NY) Supreme Court

A woman presented to a hospital at 42 weeks' gestation for delivery by midwives. Oxytocin was administered to induce labor. Approximately 2 hours into the second stage of labor, an obstetrician was called in to evaluate the delivery due to concerns that the child might be too large for the small mother to deliver vaginally. The physician told the midwives to continue with the second stage. Soon after, the fetal head delivered, but the midwife in charge suspected shoulder dystocia and asked for help from both an obstetrician and a pediatrician. It took 3 minutes to complete the delivery. The baby required resuscitation and was born with neurologic depression.

Over the next 11 hours, the infant suffered a series of seizures and was found to have bleeding in the brain. The baby was then treated at another hospital, where he was diagnosed with hypoxic ischemic encephalopathy. He now suffers from cerebral palsy and mental retardation.

In suing, the mother alleged that the head midwife allowed a midwife trainee to deliver the baby, but took over once shoulder dystocia was encountered. The woman further alleged that once shoulder dystocia was encountered, the midwives should have called in an obstetrician to perform a cesarean.

The head midwife maintained that excellent care was provided and that any brain damage the infant suffered occurred in utero, not during delivery.

- The jury awarded the infant plaintiff \$8,651,000 and the mother \$150,000 for loss of service.

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## Acne treatment causes complications in gravida

California Superior Court

A woman presented to an Ob/Gyn with pregnancy-induced mild acne. To treat the condition, the physician prescribed diflorasone diacetate 0.05% cream, which the patient was instructed to apply to her face 2 times a day. Shortly after, the woman developed cystic acne and steroid-induced rosacea, resulting in permanent redness on her nose and cheeks. During her next office visit, the patient was seen by a nurse practitioner, not the prescribing doctor. Despite describing her condition to the nurse practitioner, the woman was not told to discontinue treatment. Her face continued to break out for the duration of her pregnancy and after childbirth. Approximately 2 months after the initial prescription was issued, she admitted herself to a hospital for extreme facial pain. There she learned that the medication she had been applying was inappropriate for facial dermatitis.



In suing, the woman claimed that the physician was negligent in prescribing a potent corticosteroid primarily designed for dermatological use on heels and palms. She further alleged that the pharmacy should have alerted her to the possible risks, complications, and side effects of using the medicine on her face.

The physician contended that the patient had suffered from chronic facial acne for more than 10 years, and observed that she often prescribes diflorasone diacetate to patients who suffer from perioral dermatitis. She further alleged that the pharmacy was liable for not explaining potential adverse effects, and the woman's condition was exac-

erbated because she failed to halt treatment once it became clear her condition was worsening.

■ An arbitration panel awarded the woman \$137,000 against the physicians; the case against the pharmacy settled for an unknown sum.

## Tubal ligation leads to hemorrhage, early menopause

Queens County (NY) Supreme Court

A woman underwent tubal ligation following the cesarean delivery of her third child. During the procedure, the physician had difficulty locating the left fallopian tube. After numerous attempts, he ligated and cut what he thought was the left tube. Postoperatively, the woman began to hemorrhage and required a transfusion to replace 2,000 cm<sup>3</sup> of blood. She also developed atelectasis and congestive heart failure. She was stable 6 days later and subsequently discharged. Following the procedure, the woman never again experienced menstruation and developed signs of menopause. She was placed on hormone supplements.

In suing, the woman alleged that prior to the procedure, she told the physician she had previously undergone surgery for the removal of a right ovarian cyst and that she had no left fallopian tube. She further claimed that the blood loss and shock she sustained from the physician's negligence in cutting vascular tissue caused a pituitary hypothalamic dysfunction and the premature onset of menopausal symptoms.

The physician contended that the cut he made was on a vestigial piece of fallopian tube.

■ The case settled for \$475,000. ■

*The cases presented here were compiled by Lewis L. Laska, editor of Medical Malpractice Verdicts, Settlements & Experts. While there are instances when the available information is incomplete, these cases represent the types of clinical situations that typically result in litigation.*