

Sponge left in abdomen leads to pain, infertility

Collier County (Fla) Circuit Court

Three weeks after a successful cesarean delivery, a woman complained to her physician of pain and discomfort in the lower right quadrant of her abdomen. The physician ordered a series of blood tests and advised the woman that her pain was the result of a hematoma that would heal itself with time. However, the pain did not subside on its own.

Some time later, an x-ray of the abdomen revealed a retained surgical sponge, which was removed via laparotomy.

In suing, the woman claimed that she suffered damage to her reproductive organs as a result of the physician's negligence. In addition, she cannot conceive naturally.

- The jury awarded the plaintiff \$438,686.

Did misread mammogram lead to mastectomy?

Pima County (Ariz) Superior Court

Upon presenting to her primary care physician, a 45-year-old woman complained of a mass in her breast. A mammogram performed at a breast center yielded negative results.

Later, the patient required a mastectomy and several breast reconstruction procedures.

In suing, the woman argued that the physician failed to refer her to a surgeon after the mammogram. She added that the lack of a timely referral delayed her diagnosis. She also claimed the breast center was negligent for not telling her to follow-up with her physician.

The physician argued that he was not

negligent, since he referred the patient to the breast center for mammography and ultrasound and relied on the radiology report that came back negative. In addition, the physician claimed that any delay in diagnosis did not alter the patient's treatment options. The breast center claimed that its reporting was not negligent.

- The jury returned a verdict for the defense.

Depression, anxiety attributed to erroneous HIV diagnosis

Richland County (SC) Circuit Court

A woman at 30 weeks' gestation was diagnosed with HIV.

She began a course of medication that included azidothymidine, but never developed symptoms of HIV. Four years later another laboratory test indicated that the initial HIV diagnosis was incorrect.

In suing, the woman claimed she suffered from severe depression and anxiety as a result of the misdiagnosis.

The hospital contended that it did not violate the patient's standard of care.

- The jury awarded the plaintiff \$1.1 million. A posttrial motion to cap damages at \$250,000 is pending.

Did excessive traction lead to brachial plexus injury?

Marion County (Ohio) Court of Common Pleas

Following shoulder dystocia, an infant was born with brachial plexus injury, which resulted in partial paralysis of her right arm.

In suing, the plaintiff—who was 15 years old at trial—claimed that the physician applied excessive downward traction at the time of the dystocia.

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The physician countered that the injury was caused in utero and during delivery due to uterine contractions, expulsive forces of labor, and normal traction.

- The jury awarded the plaintiff \$900,000.

Trocar damages bowel, iliac artery, mesentery

Cole County (Mo) Circuit Court

During trocar placement for elective tubal ligation, the small bowel of a 43-year-old patient was perforated in 2 places. In addition, her right common iliac artery was punctured and her mesentery cut. The woman allegedly suffers from pain in her abdomen and groin, along with right leg fatigue.

In suing, the patient claimed that the physician inserted the trocar at an improper angle and pushed it too deeply into her abdomen.

The doctor contended that he inserted the trocar properly and that the injuries were a known risk of the procedure.

- The jury awarded the plaintiff \$300,000.

Did insufficient dilation lead to cervical, uterine injuries?

Bronx County (NY) Supreme Court

Upon presentation at a clinic for an abortion, a 19-year-old patient at 20 weeks' gestation had laminaria inserted to dilate her cervix. She returned the following day for insertion of additional laminaria.

Two days after the initial procedure, she presented for completion of the abortion. During the procedure, the patient's cervix was lacerated and her uterus perforated. The physician then performed an ultrasound and discovered fetal parts floating in the woman's abdomen.

She was transferred to a hospital, where she underwent a hysterotomy and exploratory laparotomy. She was hospitalized for 2 weeks

and advised that she would have difficulty becoming pregnant and carrying a baby to term. Two years later, however, she delivered vaginally without complication.

In suing, the patient argued that the clinic physician performed the abortion prematurely, before her cervix was fully dilated.

The doctor contended that her complications were a known risk of the procedure.

- The case settled for \$285,000.

Were complications managed properly?

Fulton County (Ga) State Court

Awoman at 28 weeks' gestation presented to her Ob/Gyn with a rash on her hands. She was referred to a dermatologist.

During a routine pregnancy visit at 30 weeks' gestation, the patient asked her physician questions about fetal movement. The doctor ordered an ultrasound 1 week later to check on fetal growth.

The ultrasound revealed intrauterine fetal demise. The stillborn was delivered. Placental pathology revealed both a clotting disorder and a severe fetal infection. In addition, after delivery, the woman's skin condition was diagnosed as a rare disease affecting the connective tissue that is commonly associated with fetal loss.

In suing, the woman claimed that she had alerted her doctor about reduced fetal movement and should have been referred for a non-stress test and/or a biophysical profile. She contended that if prenatal testing had been conducted, prompt delivery could have saved the fetus's life.

The doctor argued that scheduling an ultrasound 1 week later was well within the standard of care. The physician also denied that the plaintiff made any complaints of reduced fetal movement and contended that the patient's disease increases her risk of fetal loss. Further, the doctor noted that placental pathology revealed intravillous fibrin deposi-

CONTINUED ON PAGE 104

tion, along with a fetal infection.

- The jury returned a verdict for the defense.

Rupture attributed to delay in diagnosing ectopic pregnancy

Queens County (NY) Supreme Court

A 37-year-old woman presented to her Ob/Gyn complaining of bleeding. She reported positive results from a home pregnancy test, as well as a prior cystectomy on her left ovary and prior cesarean delivery.

The doctor confirmed the pregnancy with a urine pregnancy test and advised the patient to stay off her feet to avoid miscarriage. She was directed to return for a sonogram 9 days later.

Three days later, the patient returned complaining of severe abdominal pain and increased bleeding. She was diagnosed with a probable rupture and ectopic pregnancy and sent to a hospital, where she underwent a laparotomy with removal of the ruptured tube.

In suing, the patient argued that, given her medical history, the physician should have performed a β -human chorionic gonadotropin pregnancy test and sonogram to rule out an ectopic pregnancy. The woman also noted that in phone calls informing her physician of her severe abdominal pain she was told to stay off her feet and take over-the-counter pain medication.

The doctor argued that prior to the rupture there was not enough time for serial β -human chorionic gonadotropin testing and that a sonogram would not necessarily reveal an ectopic pregnancy.

- The case settled for \$175,000.

Did delayed cesarean result in fetal demise?

Cook County (Ill) Circuit Court

Following a 6-hour trial of labor, a woman who had presented to a hospital for delivery underwent an emergency cesarean. The

baby was delivered with severely depressed Apgar scores. Within 2 hours, he developed seizures and meconium aspiration syndrome. He died 26 hours later.

The parents sued, claiming that the physician and nursing staff should have performed the cesarean at least 30 minutes sooner. They added that the brain damage occurred during the last 10 minutes before delivery.

The physician and nursing staff contended that the cesarean was conducted in a timely and appropriate manner. Further, they maintained that the fetus suffered brain damage in utero, as a result of a triple nuchal cord and true knot in the umbilical cord.

- The jury returned a verdict for the defense.

Was hysterectomy the result of improper cesarean incision?

Queens County (NY) Supreme Court

A 32-year-old pregnant woman was diagnosed with a large fibroid that blocked her birth canal and prevented vaginal delivery.

When she presented to a hospital for cesarean delivery, the physician performed a low transverse incision and encountered bleeding. He then switched to an inverted "T" incision and delivered the infant safely. The mother, however, continued to bleed and required a hysterectomy.

In suing, the woman claimed that the physician should have performed a vertical incision, as the low transverse incision caused excessive bleeding. She added that in making the improper incision the physician might have cut the fibroid or its blood supply.

The doctor argued that he had used proper judgment in selecting a low transverse incision. He claimed that a higher incision would have put the baby at risk for injury.

- The jury awarded the plaintiff \$750,000. ■

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.