

Grandma's videotape disputes OB's account of dystocia

Middlesex County (NJ) Superior Court

A child suffered Erb's palsy following a shoulder dystocia encountered during delivery. As a result, he cannot fully extend, rotate, or raise his right arm, which is 1 inch shorter than his left.

The defendant Ob/Gyn contended that, in an effort to dislodge the shoulder, he applied gentle downward traction with his fingers. He also argued that an intrauterine event led to the injury.

However, videotape of the birth taken by the plaintiff's grandmother showed the physician pushing down on the child's head with both hands, rotating the head, then applying additional traction. After the infant's birth, the physician is shown raising and releasing the affected arm, which fell limply to the child's side.

This footage conflicted with the physician's notes, which did not indicate the second application of traction or the examination of the right arm.

The plaintiff maintained that excessive force at birth was responsible for the Erb's palsy and sequelae.

■ The jury awarded the plaintiff \$1.05 million.

Did too much oxytocin contribute to brain damage?

Contra Costa County (Calif) Superior Court

Upon admission for induction of labor, a 31-year-old gravida at 41 weeks' gestation was given misoprostol, at 8 PM. At 5 AM, the nurse began oxytocin based on the Ob/Gyn's orders.

At 6:30 AM, after examining the patient, the doctor diagnosed pregnancy-induced hypertension, ordered magnesium sulfate, and performed an artificial rupture of membranes. The physician then left the hospital to return to his office.

At 1:50 PM, fetal monitoring strips displayed decreased variability. Fifty-five minutes later, the oxytocin dosage was increased.

At 5:15 PM, the doctor returned to find the mother fully dilated and the infant in occiput-posterior position. Attempts to rotate the head proved unsuccessful; thus at 6 PM the Ob/Gyn opted for a cesarean delivery. A monitor attached in the operating room showed a fetal heart rate in the sixties.

At 6:23 PM, the child was born and had Apgar scores of 1, 3, and 4. A blood culture revealed Group D strep infection and a blood gas at 50 minutes of age showed metabolic acidosis. The child was later diagnosed with cerebral palsy and at age 3 was profoundly disabled.

In suing, the plaintiffs alleged that the combination of increased oxytocin, a nonreassuring fetal heart rate, and pregnancy-induced hypertension led to acute asphyxia at approximately 5:50 PM. Had cesarean delivery been initiated prior to this time, they contended, the child would have been normal at birth.

The defendant hospital maintained the oxytocin increases were reasonable, and claimed the fetal monitoring strips were reassuring with good variability for a woman receiving epidural medication and magnesium sulfate.

According to the defendant physician, computed tomography imaging showed that the child's brain injury was sudden and

abrupt, indicating acute cord compression. It was argued that this compression was unpredictable, and that the child's ability to tolerate it was compromised due to the presence of severe Group D strep, as evidenced by her metabolic acidosis.

■ The jury returned a defense verdict for the Ob/Gyn. They returned a gross verdict of \$59.3 million against the defendant hospital. The present cash value of the gross verdict was determined to be \$6.4 million for future medical costs plus \$904,000 for future loss of earning capacity.

Ectopic pregnancy missed: Salpingectomy required

Queens County (NY) Supreme Court

A 21-year-old woman presented with complaints of severe abdominal pain and fainting. Hospital residents determined she was 5 weeks pregnant. After informing the clinicians she had received a birth-control shot 5 to 6 weeks earlier, she was admitted for additional testing. During this time her beta-human chorionic gonadotropin (β -HCG) was noted as rising.



Ectopic pregnancy

Following a dilation and curettage procedure conducted 2 days after admission, physicians concluded the patient had miscarried. A pathology report issued 4 days later, however, noted no pregnancy tissue in the woman's uterus. No additional studies were ordered and the woman was released.

Four days later, the woman presented to another hospital with a fallopian tube ruptured beyond repair, and underwent a salpingectomy.

In suing, the plaintiff claimed that information obtained during her hospital stay clearly pointed to an ectopic pregnancy—specifically, the slowness with which her β -HCG levels were rising and the absence of

pregnancy tissue in her uterus. Had the ectopic pregnancy been diagnosed, she argued, the injury to her fallopian tube would have been discovered earlier, when it could have been repaired laparoscopically, protecting her fertility.

Further, the woman contended that during her stay she suffered undiagnosed internal bleeding that may have caused damage to her remaining fallopian tube, thus cutting her chances of achieving pregnancy naturally by more than half.

One of the 2 defendant attending physicians claimed she was not in any way involved with the admission or care of the patient; as a result, action against her was subsequently dropped. The second physician maintained she was never informed of the pathology results.

■ The case settled for \$500,000, split between the defendant hospital and physician.

Did OCs for menorrhagia cause aphasia?

Cook County (Ill) Circuit Court

A 47-year-old woman presented with menorrhagia, for which her Ob/Gyn prescribed oral contraceptives (OCs). Approximately 1 month later, the woman suffered a cerebral hemorrhage that resulted in aphasia.

In suing, the woman contended that, as per the standard of care, she should have been prescribed progesterone—not OCs—due to a family history of strokes.

The defendant, while aware of the patient's history, believed the benefits of OCs outweighed the risks.

■ The jury awarded the plaintiff \$545,000. ■

The cases in this column are selected by the editors of OBG MANAGEMENT from Medical Malpractice Verdicts, Settlements & Experts, with permission of the editor, Lewis Laska, of Nashville, Tenn. (www.verdictslaska.com) While there are instances when the available information is incomplete, these cases represent the types of clinical situations that typically result in litigation.

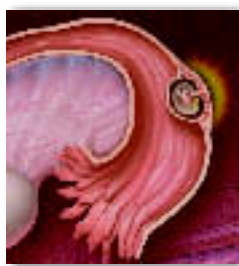
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