Removal of wrong ovary?

SEVERAL YEARS EARLIER, a patient had undergone a hysterectomy but retained her ovaries and fallopian tubes. She reported recurrent pelvic pain, especially on the left side, to a gynecologic surgeon. Ultrasonography (US) results showed a small follicular cyst on the right ovary and a simple cyst on the left ovary. The patient consented to diagnostic laparoscopy with possible left salpingo-oophorectomy. During the procedure, the surgeon removed the right fallopian tube and ovary. After recovery, the patient continued to have left-sided pelvic pain. When she saw another surgeon a year later, US results showed that the left ovary and tube were still intact. The patient underwent left salpingo-oophorectomy.

PATIENT'S CLAIM: The surgeon removed the wrong ovary and tube, a breach of the standard of care, and didn't adequately explain his surgical actions.

DEFENDANTS' DEFENSE: Standard of care was maintained. During surgery, the surgeon encountered severe adhesions on the patient's left side and was unable to visualize her left ovary. He decided that what had appeared to be an ovary on US most likely was a fluid collection, and that the patient's left ovary must have been removed at hysterectomy. The surgeon concluded that the hemorrhagic cyst on the right ovary and adhesions were causing the patient's pain, and removed them. The patient had given him permission to perform laparoscopic surgery, but he did not have her consent to convert to laparotomy, which would have been necessary to confirm the absence of her left ovary.

VERDICT: An Alabama defense verdict was returned.

Did mother's allergic reaction cause fetal injury?

WHEN A MOTHER WAS ADMITTED to the labor and delivery unit, she had strep throat; ampicillin was administered. She experienced anaphylactic symptoms that were attended to. The baby, delivered vaginally 3 hours later, was severely distressed and showed signs of asphyxia. He was found to have a permanent brain injury.

PARENTS' CLAIM: The ObGyn and hospital nurses failed to properly manage the mother's anaphylactic reaction to ampicillin. Fetal heart-rate tracings indicated fetal distress. Standard of care required prompt intervention with epinephrine and/or emergency cesarean delivery. Brain injury occurred because these procedures were not performed.

DEFENDANTS' DEFENSE: The nurses denied fault and explained that they appropriately and immediately responded to mild anaphylactic symptoms in the mother. They could not administer epinephrine because the ObGyn did not order it.

The ObGyn denied violating the standard of care that included minimizing the mother's allergic reaction. Because the mother didn't have a rash, it was not necessary to order epinephrine. The baby sustained an unknown injury earlier in the pregnancy that was unrelated to labor.

VERDICT: A Tennessee defense verdict was returned.

Was wrong hysterectomy procedure chosen?

AFTER BEING TREATED by her ObGyn for postmenopausal bleeding with medication and dilation and curettage, a 50-year-old woman underwent total abdominal hysterectomy (TAH). At an office visit 3 weeks postsurgery, she reported uncontrollable urination. The patient was admitted to a hospital, where cystogram results showed a vesico-vaginal fistula (VVF). She was treated with catheter drainage and referred to a urologist. The patient underwent 2 unsuccessful repair operations. A third repair, performed 10 months after the TAH, was successful.

PATIENT'S CLAIM: The ObGyn should have performed laparoscopic supracervical hysterectomy (LSH) instead of TAH because the patient's cervix would have remained intact and VVF would not have developed. Medical bills totaled $194,000.

PHYSICIAN'S DEFENSE: The standard of care did not require LSH. Had the ObGyn left the cervix intact, the patient could have continued bleeding with increased risk of cervical

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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.*

PHOTO: ISTOCK

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cancer. A bladder injury is a known complication of hysterectomy.

▸ **VERDICT:** A Mississippi defense verdict was returned.

Resident blamed for shoulder dystocia

A MOTHER PRESENTED to a federally funded health center in labor. A first-year resident managed labor and delivery under the supervision of the attending physician. Shoulder dystocia was encountered and the baby suffered a permanent brachial plexus injury.

▸ **PARENTS' CLAIM:** Negligence occurred when the resident used excessive force by pulling on the infant's neck during delivery. The resident, who had just received his medical license, was poorly supervised by the attending physician.

▸ **DEFENDANTS' DEFENSE:** Suit was brought against the resident, the attending physician, the federal government, and the hospital's residency program. The resident denied using excessive force. As soon as delivery became complex, the attending physician completed the delivery. The baby's injuries were unpredictable and unavoidable.

▸ **VERDICT:** A $290,000 settlement with the federal government was reached before trial. A Pennsylvania defense verdict was returned for the other parties.

Woman dies after uterine fibroid removal

A 39-YEAR-OLD WOMAN with a history of hypertension, diabetes, moderate obesity, and end-stage renal disease underwent myomectomy. A first-year resident assisted the attending anesthesiologist during the procedure. While the patient was under general anesthesia, her blood pressure (BP) dropped rapidly and remained at an abnormally low level for 45 minutes. Then the patient's heart rate dropped to around 30 bpm and remained at that level for 15 minutes before her BP and heart rate were finally restored. The patient never regained consciousness and remained in an irreversible coma until she died 6 days later.

▸ **ESTATE'S CLAIM:** The anesthesiologist and resident negligently allowed the patient's BP and heart rate to fall to dangerously low levels. Because the patient had hypertension, diabetes, and obesity, she required a higher BP to maintain adequate cerebral perfusion. The physicians precipitated the patient's hypotension by giving her an excessive dose of morphine and bupivacaine via epidural catheter prior to induction of general anesthesia, and then failed to give her sufficient doses of vasopressors to increase her BP to safe levels. They failed to properly treat the condition in a timely manner, causing brain damage, and ultimately, death.

▸ **DEFENDANTS' DEFENSE:** The case was settled during mediation.

▸ **VERDICT:** A $900,000 Massachusetts settlement was reached.

What caused brachial plexus injury?

AN EXPERIENCED MIDWIFE delivered a baby who sustained a brachial plexus injury resulting in flail arm syndrome.

▸ **PARENTS' CLAIM:** The midwife mismanaged the delivery causing permanent injury. The child has gained little improvement with surgery and physical therapy.

▸ **DEFENDANTS' DEFENSE:** The injury was caused by the natural forces of labor. The midwife used appropriate techniques during the birth.

▸ **VERDICT:** A Washington defense verdict was returned.

Ureter injured during hysterectomy

A 47-YEAR-OLD WOMAN'S right ureter was damaged during laparoscopic hysterectomy. During surgery, the gynecologist called in a urologist to repair the injury. The patient reported postsurgical complications including renal function impairment. A computed tomography scan showed a right ureter obstruction. When surgery confirmed complete obstruction of the ureter, she had a temporary nephrostomy drain placed. After 4 weeks, the patient returned to the operating room to have the right ureter implanted into the bladder. The patient reported occasional painful urination with increased urinary frequency and decreased right kidney size.

▸ **PATIENT'S CLAIM:** The gynecologist lacerated the ureter because he did not adequately identify and protect the ureter; this error represented a departure from the standard of care. The urologist failed to properly repair the injury. The patient sought recovery of $990,000 for past and future pain and suffering.

▸ **DEFENDANTS' CLAIM:** The suit against the urologist and hospital was dropped, but continued against the gynecologist. The gynecologist claimed that the patient's injury was a thermal burn, and is a known complication of the procedure.

▸ **VERDICT:** A $500,000 New York verdict was returned.