Forceful use of forceps, infant dies: $10.2M verdict

A WOMAN IN HER MID-20S went to the hospital in labor. After several hours, fetal heart-rate (FHR) monitor results became nonreassuring. The ObGyn and the nurse in charge disagreed on the interpretation of the FHR monitor strips. The nurse went to her supervisor, who confronted the ObGyn 2 hours later, saying that fetal distress was a serious concern and necessitated the cessation of oxytocin. The ObGyn disagreed and ordered another nurse to increase the oxytocin dose.

Three hours later, when the FHR monitoring strips showed severe distress, the ObGyn decided to undertake an operative vaginal delivery. During a 17-minute period, the ObGyn unsuccessfully used forceps 3 times. On the second attempt, a cracking noise was heard. Then a cesarean delivery was ordered; the baby was born limp, lifeless, and unresponsive. She was found to have hypoxic ischemic encephalopathy, was removed from life support, and died.

PARENTS' CLAIM: Oxytocin should not have been continued when the baby was clearly in distress. The supervising nurse should have contacted her supervisor and continued up the chain of command until the ObGyn was forced to stop the oxytocin.

Physicians are prohibited from using their leg muscles when applying forceps; gentle action is critical. During one attempt, the ObGyn had his leg on the bed to increase the force with which he pulled on the forceps. The ObGyn's reckless use of forceps caused a skull fracture to depress into the brain. The ObGyn also tried to turn the baby using forceps, which is outside the standard of care because of the risk of rotational injury. A mother's pushing rarely causes such severe damage to the baby.

DEFENDANTS' DEFENSE: There was no negligence. The hypoxia was due to a hemorrhage. Natural forces of a long delivery caused the skull injury.

VERDICT: A $10,200,575 Texas verdict was returned.

PHOTO: SHUTTERSTOCK

After long labor, baby has CP: $8.4M settlement

EARLY ON MARCH 20, a 30-year-old woman who weighed 300 lbs was admitted for delivery at 40 weeks' gestation. Labor was induced with oxytocin. Within 30 minutes, FHR monitoring showed that the baby's baseline began to climb, accelerations ceased, and late decelerations commenced. The oxytocin dose was steadily increased throughout the day. A nurse decided that the baby was not tolerating the contractions and discontinued oxytocin. The attending ObGyn ordered oxytocin be restarted after giving the baby a chance to recover. The mother requested a cesarean delivery, but the ObGyn refused, saying that he was concerned with the risk due to her excessive weight and prior heart surgery. When his shift ended, his partner took over.

On March 21, a nurse reported that the FHR had climbed to 160 bpm although labor had not progressed. The ObGyn ordered terbutaline to slow contractions but he did not examine the mother. An hour after terbutaline administration, the FHR showed a deceleration. An emergency cesarean delivery was performed. The baby, born severely depressed, was resuscitated. Magnetic resonance imaging performed at 23 days of life showed that the child had a hypoxic ischemic injury. She has cerebral palsy and is nonambulatory with significant cognitive deficits.

PARENTS' CLAIM: The care provided by 2 ObGyns, nursing staff, and hospital was negligent. A cesarean delivery should have been performed on March 20 when the nurse identified fetal distress. The nurses should have been more assertive in recommending cesarean delivery. The injury occurred 30 minutes prior to delivery and could have been prevented by an earlier cesarean delivery.

DEFENDANTS' DEFENSE: FHR strips on March 20 were not as nonreassuring as claimed and did not warrant cesarean delivery, which was performed when needed.

VERDICT: An $8.4 million Wisconsin settlement was reached by mediation.

Eclamptic seizure, twins stillborn: $4.25M

A 29-YEAR-OLD WOMAN pregnant with twins had an eclamptic seizure at 33 4/7 weeks' gestation. The babies were stillborn.

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PARENT'S CLAIM: The ObGyn failed to properly treat the patient's preeclampsia for more than 11 weeks. The seizure caused hypovolemic shock, tachycardia, and massive hemorrhaging and required an emergency hysterectomy and bilateral salpingo-oophorectomy. The patient has no children and has been rendered unable to conceive. She sought to apportion 60% of the settlement proceeds to her distress claim and 20% each to wrongful-death and survival claims. She also sought to bar the twins' biological father from sharing in the recovery due to abandonment.

HOSPITAL'S DEFENSE: The case was settled during the trial.

VERDICT: The mother agreed to receive 65% of the wrongful-death and survival funds, with 35% going to the father. A Pennsylvania settlement of $4.25 million was reached.

Brachial plexus injury: $4.8M verdict

A WOMAN GAVE BIRTH with assistance from a midwife. During delivery, shoulder dystocia was encountered. The baby has a permanent brachial plexus injury.

PARENTS' CLAIM: The midwife mismanaged shoulder dystocia by applying excessive traction to the baby's head. The ObGyn in charge of the mother's care did not provide adequate supervision.

DEFENDANTS' DEFENSE: The hospital settled prior to trial. The midwife and ObGyn denied negligence during delivery and contended that the child's injury occurred as a result of the natural forces of labor.

VERDICT: The jury found the midwife 60% negligent and the ObGyn 40% negligent. A $4.82 million Florida verdict was returned.

What caused infant's death?

DURING PRENATAL CARE, a woman underwent weekly nonstress tests due to excessive amniotic fluid until the level returned to normal. Near the end of her pregnancy, the patient noticed a decrease in fetal movement and called her ObGyn group. She was told to perform a fetal kick count and go to the emergency department (ED) if the count was abnormal, but she fell asleep. In the morning, she presented to the ObGyns' office and was sent to the hospital for emergency cesarean delivery, which was performed 2.5 hrs after her arrival. The infant was born in distress and died 8 hours later.

PARENTS' CLAIM: The ObGyns should have continued weekly tests even after the amniotic fluid level returned to normal. She should have been sent to the ED when she initially reported decreased fetal movement. Cesarean delivery should have been performed immediately upon her arrival at the hospital.

PHYSICIANS' DEFENSE: Further prenatal testing for amniotic fluid levels was unwarranted. Telephone advice to count fetal kicks was appropriate. The delay in performing a cesarean delivery was beyond the ObGyns' control. The outcome would have been the same regardless of their actions.

VERDICT: A Michigan defense verdict was returned.

Perineal laceration during vaginal delivery

DURING VAGINAL DELIVERY, a 27-year-old woman suffered a 4th-degree perineal laceration. She developed a retrovaginal fistula and has permanent fecal incontinence.

PATIENT'S CLAIM: The ObGyn's care was negligent. She failed to perform a rectal examination to assess the severity of the perineal laceration. The laceration was improperly repaired, and, as a result, the patient developed a retrovaginal fistula that persisted for 6 months until it was surgically repaired. A divot in her anal canal causes fecal incontinence.

PHYSICIAN'S DEFENSE: The ObGyn contended she correctly diagnosed and repaired a 3rd-degree laceration. The wound later broke down for unknown reasons.

VERDICT: An Arizona defense verdict was returned.

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