Mother dies after cesarean delivery: $4.5M verdict

A 31-YEAR-OLD WOMAN GAVE BIRTH to her first child by cesarean delivery. Over the next 3 days she reported nausea, vomiting, severe abdominal pain, and had an elevated heart rate. On day 4, she was discharged from the hospital. She went to the ObGyn's office the next day and was told, after several hours, to return to the hospital. There she was found to have sepsis and acute renal failure. A transfer to another hospital was attempted that night, but she died during transport.

ESTATE'S CLAIM The ObGyn should have responded to her reported symptoms prior to discharge by ordering tests. The ObGyn should have called an ambulance to transport her to the hospital from his office.

DEFENDANTS' DEFENSE The hospital settled for an undisclosed amount before the trial. The ObGyn claimed that there was no negligence in the patient's treatment.

VERDICT A $4.5 million North Carolina verdict was returned.

Brain-damaged child dies at age 2

A WOMAN WAS ADMITTED to the hospital in labor. Ninety minutes later a nonreassuring fetal heart-rate tracing was noted. Two hours after that, the ObGyn decided to perform an emergency cesarean delivery.

The child was depressed at birth and required resuscitation. She was transferred to another hospital's neonatal intensive care unit (NICU), where she was found to have had a severe and catastrophic brain injury. The child died at 2 years of age.

PARENTS' CLAIM An emergency cesarean delivery should have been performed as soon as the fetal heart-rate tracing was found to be nonreassuring. The ObGyn failed to respond to phone calls from the nurses to report fetal distress.

PHYSICIAN'S DEFENSE The delivery was performed in a timely manner. Brain damage was due to encephalopathy that occurred prior to labor.

VERDICT A Mississippi defense verdict was returned.

Who or what was at fault for ureter injury?

A 45-YEAR-OLD WOMAN underwent hysterectomy performed by her ObGyn. During surgery, the patient's ureter was injured. Several additional operations were needed to repair the injury.

PATIENT'S CLAIM The patient was not fully informed of the extent of the surgery or possible complications. The ObGyn was negligent in injuring the ureter.

DEFENDANTS' DEFENSES Three months after surgery, the physician entered notes into the patient's chart that indicated that the ureter injuries were due to a defective monopolar device that had been provided by the hospital. Informed consent included surgical options and complications.

The hospital argued that its equipment was not defective; other surgeons had used the device without any problems. The ObGyn had not used the device before; any injuries were due to his inexperience and negligence.

VERDICT A $2 million South Carolina verdict was returned against the ObGyn. The hospital received a defense verdict.

Did excessive force cause child's C7 injury?

DURING DELIVERY, shoulder dystocia was encountered. The child has nerve root avulsion at C7 with damage to adjacent nerve trunks at C5–C6. As a result of the brachial plexus injury, the patient underwent cable grafting and muscle surgeries, but he has permanent weakness and dysfunction in his left arm.

PARENTS' CLAIM Excessive force was used to deliver the child during manipulations for shoulder dystocia.

PHYSICIAN'S DEFENSE The ObGyn denied using excessive traction. She claimed that she had never used upward traction during a shoulder dystocia presentation. Suprapubic pressure, McRoberts' maneuver, and delivery of the posterior arm were used. The damage occurred prior to delivery of the head.

VERDICT An Illinois defense verdict was returned.

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: SHUTTERSTOCK

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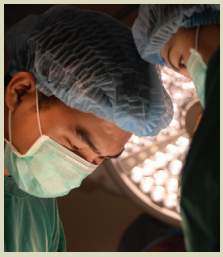

Laparoscopic sheath and coils found at exploratory surgery

IN APRIL 2007, a woman underwent a sterilization procedure (Essure) after which she reported pelvic pain. In September 2007, she consented to right salpingo-oophorectomy plus appendectomy. The ObGyn performed the surgery using a robotic device. After surgery, the pathology report indicated that the resected organs were normal and functional.

The patient moved to another state. She continued to have pain and sought treatment with another physician. A computed tomography (CT) scan more than 3 years after robotic surgery revealed foreign objects in the patient's body. One full Essure coil, a non-fired coil, a second partial coil, and a robotic laparoscopy sheath were surgically removed.

PATIENT'S CLAIM The ObGyn was negligent in the performance of the sterilization and robotic surgery procedures. The healthy ovary and fallopian tube should not have been removed and caused her to have surgical menopause.

PHYSICIAN'S DEFENSE The right ovary appeared diseased. The Essure device dropped the coils. The robot malfunctioned during the salpingo-oophorectomy.

VERDICT A $110,513 Oregon verdict was returned, including $10,500 in medical expenses and $100,000 for pain and mental anguish.

Discrepancy in fundal height; child has CP

DURING HER SECOND PREGNANCY, a 37-year-old woman saw Dr. A, her ObGyn, for regular prenatal care. At 37 weeks' gestation, the fundal height was not consistent with the fetus' gestational age: the measurement was higher by 2 cm. No additional testing was scheduled.

At 39.5 weeks' gestation, the mother reported decreased fetal movement. Because her regular ObGyn was on vacation, she was evaluated by another ObGyn (Dr. B). The fetal heart-rate monitor showed nonreactive results with minimal variability. Dr. B told the mother to drive herself to the emergency department (ED) for additional evaluation. At the hospital, when fetal heart-rate monitoring confirmed fetal distress, an emergency cesarean delivery was performed.

At birth, the baby was not breathing and resuscitation began. The infant was taken to a transitional care unit and then to the NICU, where he was intubated. Cord blood testing confirmed metabolic acidosis. The baby was later found to have dystonic cerebral palsy (CP). He is unable to speak, walk, eat, or care for himself, and he requires 24/7 nursing care.

PARENTS' CLAIM Dr. A failed to order testing after the fundal height discrepancy was found. Testing could have led to an earlier delivery and avoided the injury. The pediatrician failed to ensure adequate oxygenation after delivery. The baby should have been transferred immediately to the NICU and intubated.

PHYSICIANS' DEFENSE The fundal height discrepancy was explained by the baby's position within the uterus. The pediatrician acted heroically to save the child's life.

VERDICT A $3.5 million Massachusetts settlement was reached.

NT scans misread, not reported; child has Down syndrome

AT 13 WEEKS' GESTATION, a 38-year-old woman saw a maternal-fetal medicine (MFM) specialist, who interpreted a nuchal translucency (NT) scan as normal. At 20 weeks' gestation, an ObGyn performed a second screening that indicated the fetus was at high risk for Down syndrome. However, no further testing was ordered.

At 26.5 weeks' gestation, amniocentesis was performed after ultrasonography and an echocardiogram revealed fetal abnormalities. A diagnosis of Down syndrome was made at 29 weeks' gestation, too late for termination of pregnancy.

PARENT'S CLAIM The MFM specialist misread the first NT scan. The ObGyn did not inform the mother of the results of the second screening. Proper interpretation and reporting would have initiated further testing and determination that the baby had Down syndrome before the deadline for termination of pregnancy.

DEFENDANTS' DEFENSE The case was settled during trial.

VERDICT A $3 million New Jersey settlement was reached, including $2 million from the medical center where the second test was performed, $940,000 from the ObGyn, and $60,000 from the MFM specialist.

PHOTO: SHUTTERSTOCK

Uterine rupture, baby dies: $2.15M award

AT 38 WEEKS' GESTATION, a mother was admitted to a hospital for induction of labor due to pregnancy-induced hypertension. The fetus was estimated to be large for its gestational age. A uterine rupture occurred during labor. The baby was stillborn.

PARENTS' CLAIM The uterine rupture was not immediately recognized. The ObGyn failed to come to the mother's bedside until after the fetus had receded up the birth canal, which indicated that a rupture was occurring. The ObGyn ordered oxytocin instead of performing an immediate cesarean delivery. Eleven minutes later, the cesarean was ordered, but the baby had died.

PHYSICIAN'S DEFENSE There was no negligence; proper protocols were followed. A uterine rupture cannot be predicted.

VERDICT A $650,000 settlement was reached with the hospital before trial. Because the ObGyn was employed by a federally qualified clinic, the matter was filed in federal court. The Illinois court issued a bench decision awarding $1.5 million.

Migrated IUD causes years of pain

IN SEPTEMBER 2006, an ObGyn inserted an intrauterine device (IUD) in a patient. In February 2007, the patient had an ectopic pregnancy. The IUD was not found during dilation and curettage. The patient continued to report pain to the ObGyn. She sought treatment from another physician in November 2010 due to continuing pain. A CT scan revealed that the IUD had migrated to her abdomen. The IUD was surgically removed.

PATIENT'S CLAIM The ObGyn was unwilling to figure out why the patient had continuing pain, and told her to "just deal with it." He should have found and removed the IUD after the ectopic pregnancy.

PHYSICIAN'S DEFENSE It was reasonable to assume that the IUD had been expelled, as 2 ultrasonographies performed after ectopic pregnancy revealed nothing. Since the IUD had not caused an abscess, infection, or inflammation, the patient suffered no injury.

VERDICT A Virginia defense verdict was returned.

Profoundly disabled child dies at age 5

A 17-YEAR-OLD WOMAN with a history of miscarriage received prenatal care from her ObGyn. A July due date was established by ultrasonography in January.

In May, the mother went to the ED with pelvic pain. She was treated for preterm labor and discharged 2 days later.

In early July, ultrasonography showed a fetus in cephalic position with a posterior-located placenta.

At a prenatal examination a week later, the patient reported vaginal discharge. Her ObGyn suspected premature rupture of membranes (PROM) and admitted her to the hospital. Oxytocin was used to induce labor. Intact membranes were artificially ruptured and an internal fetal heart-rate monitor was placed. The ObGyn recorded that the pregnancy was at term.

Hours later, the mother told the nurses that she thought the fetal monitor had become disconnected; the monitor's placement was not confirmed. The mother was given a sedative. After a few hours, she awoke with intense pain and dizziness. She used her call button, but no one immediately responded.

When full cervical dilation was reached, the fetus was at –1, 0 station. When the fetus reached +1 station, delivery was attempted. The baby was delivered using vacuum extraction.

The child's Apgar score was 0 at 1 minute of life. Resuscitation was started with intubation and mechanical ventilation. The child's birth weight was 6.87 lb; arterial blood gas pH measured 6.9; and gestational age was estimated at 38 to 39 weeks.

An electro-encephalogram performed in the NICU suggested intraventricular hemorrhage. The child was found to have perinatal asphyxia, hypoxic ischemic encephalopathy, left parietal skull fracture and cephalohematoma, severe metabolic acidosis, suspected sepsis, transient oliguria, and seizure episodes. The baby was hospitalized for 3.5 months and then followed regularly.

The mother and child moved from Puerto Rico to New York City to obtain better medical care. The child was regularly hospitalized until she died at age 5.

PARENT'S CLAIM There was a discrepancy in gestational age assessment. The nurses failed to monitor fetal heart-rate tracings at proper intervals, and they were unresponsive to the mother. Informed consent did not include vacuum extraction.

DEFENDANTS' DEFENSE The case was settled during trial.

VERDICT A $1.125 million Puerto Rico settlement was reached.