



## Signs of chorioamnionitis ignored? \$3.5M settlement

**AT 31 WEEKS' GESTATION**, a mother was at risk for preterm labor. She was admitted to the hospital for 2 days. Examination and test results showed evidence of infection. She was given antenatal corticosteroids for fetal lung development in case of premature delivery. At discharge, bed rest was ordered, and she complied. At 32 weeks' gestation, she returned to the hospital, with worsening symptoms. She was prescribed antibiotics to treat a urinary tract infection and discharged. She went to the hospital a third time at almost 33 weeks' gestation, experiencing contractions and leaking fluid. She was admitted with a plan to deliver the baby if any signs or symptoms of intra-amniotic infection (clinical chorioamnionitis) were present.

Four days later, a cesarean delivery was ordered due to fetal tachycardia and decreased fetal heart rate. Imaging results performed in the neonatal intensive care unit showed that the baby suffered a brain injury. The child has physical and mental impairments, including cerebral palsy, cortical blindness, and epilepsy.

► **PARENTS' CLAIM** Hospital health care providers failed to communicate with each other or to obtain records from prior admissions, although the mother told them that she had been to the hospital twice within the past 2 weeks. Medical records from all 3 admissions showed clear signs and symptoms of a vaginal/cervical infection that had progressed to clinical chorioamnionitis 2 days before delivery. Examination of the placenta by a pathologist confirmed that the infection had spread to the umbilical cord, injuring the child.

► **DEFENDANTS' DEFENSE** The standard of care was met. There was no indication that an earlier delivery was needed.

► **VERDICT** A \$3.5 million Michigan settlement was reached by the hospital during the trial.

The ObGyn claimed that the patient signed a general consent form that permitted him to do what was reasonable. He had determined after surgery began that a laparoscopic procedure would have been more dangerous.

► **VERDICT** A \$150,000 Louisiana verdict was returned against the ObGyn; the hospital was acquitted.

## Macrosomic baby and mother both injured during delivery

**DELIVERY OF A MOTHER'S FOURTH CHILD** was managed by a hospital-employed family physician (FP). Shoulder dystocia was encountered, and the FP made a 4th-degree extension of the episiotomy. The baby weighed 10 lb 14 oz at birth. The mother has fecal and urinary incontinence and pain as a result of the large episiotomy. The child has a right-sided brachial plexus injury.

► **PARENTS' CLAIM** Failure to perform cesarean delivery caused injury to the mother and child. The FP should have recognized from the mother's history of delivering 3 macrosomic babies and the progress of this pregnancy, that the baby was large.

► **DEFENDANTS' DEFENSE** The case was settled during trial.

► **VERDICT** A \$1.5 million Minnesota settlement was reached that included \$1.2 million for the child and \$300,000 for the mother. 📌

*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.*

## Surgical approach to tubal ligation questioned

**A WOMAN WENT TO HER OBGYN** for tubal ligation and ventral hernia repair. The patient was concerned about infection and scarring. She agreed to a laparoscopic procedure, knowing that the procedure might have to be converted to laparotomy.

► **PATIENT'S CLAIM** The patient consented to laparoscopic surgery. However, surgery did not begin as laparoscopy but as an open procedure. The patient has a 6-inch scar on her abdomen. She accused both the ObGyn and the hospital of lack of informed consent for laparotomy.

► **DEFENDANTS' DEFENSE** The hospital claimed that their nurses' role was to read the consent form signed by the patient in the ObGyn's office.



## Patient denies consent to endometriosis treatment

**A WOMAN UNDERWENT** laparoscopic surgery to remove an ovarian cyst. During surgery, the gynecologist found endometriosis and used electro-surgery to destroy the implants. Following extensive electro-surgery, a hemorrhage occurred. The gynecologist placed 5 large clips to control bleeding. The patient was discharged. When she returned to the hospital in pain, she was sent home again. She visited another emergency department (ED), where a clip was found to have blocked a ureter. She underwent ureteroneocystostomy to repair the damage. The patient now reports incontinence, a ligated ureter, and extensive scar tissue, which may keep her from being able to become pregnant.

▶**PATIENT'S CLAIM** She only consented to ovarian cyst removal, not to any other procedures. The gynecologist was negligent in performing electro-surgery and placing the clips. A urologist should have checked for injury.

▶**PHYSICIAN'S DEFENSE** When a patient agrees to laparoscopic surgery, she also agrees to exploratory abdominal surgery. The gynecologist performs electro-surgery to treat endometriosis in 30% to 60% of her surgical cases. Electro-surgery was essential to stop the patient's pain. The clips were carefully placed when treating the hemorrhage.

▶**VERDICT** A \$206,886 California verdict was returned against the gynecologist.

## Eclampsia, death: \$6.9M settlement

**A MOTHER DELIVERED** a healthy baby on May 21. Twice in the week following delivery, she returned to the ED reporting shortness of breath, swollen legs, and elevated blood pressure. Pulmonary embolism was excluded both times. After the second visit, she was discharged with a diagnosis of shortness of breath of unknown etiology. The patient's ObGyn was not contacted nor was urinalysis performed. On June 1, she suffered seizures and brain injury; she died on June 10.

▶**ESTATE'S CLAIM** The ED physicians failed to diagnose and treat eclampsia.

▶**DEFENDANTS' DEFENSE** The case was settled early in the trial.

▶**VERDICT** A \$6.9 million Illinois settlement was reached with the hospital.

## Child has CP: \$8M settlement

**AT 40 1/7 WEEKS' GESTATION**, labor was induced in an obese woman who had a heart condition. Over the next 36 hours, dinoprostone and oxytocin were administered, but her cervix only dilated to 2 cm. Two days later, the fetal heart rate reached 160 bpm. The ObGyn ordered terbutaline in anticipation of cesarean delivery, but he did not come to the hospital. The fetal heart rate continued to rise and then bradycardia occurred.

When notified, the ObGyn came to the hospital for an emergency cesarean delivery. The child was severely depressed at birth with Apgar scores of 0, 1, and 2 at 1, 5, and 10 minutes, respectively. Magnetic resonance imaging at 23 days showed distinct hypoxic ischemic injury in the infant. Cerebral palsy was later diagnosed. The child is nonambulatory with significant cognitive impairment.

▶**PARENTS' CLAIM** Failure to perform cesarean delivery in a timely manner caused injury to the child.

▶**DEFENDANTS' DEFENSE** The case was settled during the trial.

▶**VERDICT** An \$8 million Wisconsin settlement was reached with the medical center and physician group.

## Infant has a stroke: \$3M settlement

**A 26-YEAR-OLD DIABETIC WOMAN** was referred to a maternal-fetal medicine (MFM) specialist. She had been hospitalized for nausea and dehydration several times during her pregnancy, but it appeared that fetal development was normal.

As labor progressed, fetal distress was diagnosed in the setting of low blood pressure. When notified, the MFM immediately ordered an emergency cesarean delivery. A few days after birth, it was determined that the child had a stroke in utero.

▶**PARENT'S CLAIM** Emergency cesarean delivery should have been performed earlier. Hospital staff did not communicate fetal distress to the MFM in a timely manner.

▶**DEFENDANTS' DEFENSE** The case was settled at trial.

▶**VERDICT** A \$3 million Connecticut settlement was reached with the hospital.