Child has congenital disorder after negative prenatal testing

WHEN A POSSIBLE FETAL ABNORMALITY WAS SEEN on ultrasonography, the ObGyn suggested both parents have DNA testing for a hormonal disorder. Blood samples were taken in the hospital laboratory and sent to an outside lab. The parents were told that the results were negative.

The child was born with congenital adrenal hyperplasia, causing hormonal imbalance and development of ambiguous genitalia. She underwent genital reconstruction surgery at 4 months, and is expected to require additional surgery and lifelong hormone replacement therapy and monitoring.

PATIENTS' CLAIM The hospital lab technician ordered the wrong test. The ObGyn was at fault for not confirming the test's name. The parents would have terminated the pregnancy if they had been correctly informed of the child's condition.

DEFENDANTS' DEFENSE The test requested by the lab technician was similar in name to that ordered by the ObGyn. The ObGyn denied negligence; she relied on the lab to order the test she requested. The hospital claimed the error had been the fault of other entities involved in the handling and testing of the blood samples.

VERDICT A New Jersey jury found the hospital 75% and the lab technician 25% liable. The $1 million verdict included $625,000 for the child and $375,000 for her parents. A defense verdict was returned for the ObGyn.

Decision-to-delivery time challenged

A WOMAN WAS ADMITTED to the hospital for induction of labor for vaginal birth after cesarean delivery (VBAC). Because of fetal distress, the child was delivered by cesarean and later given a diagnosis of cerebral palsy. He has deficits involving grip, writing, and gait, and developmental delays.

PATIENT'S CLAIM Cesarean delivery should have been performed earlier because of a non-reassuring fetal heart rate.

PHYSICIAN'S DEFENSE The child's heart rate was properly monitored in utero, and there were no contraindications to VBAC. As soon as the fetal tracings were disturbing, the physician converted to cesarean delivery. Only 18 minutes elapsed from the time of that decision until delivery. The child's injury was mild and he has no cognitive impairment.

VERDICT A Mississippi defense verdict was returned.

Hematoma following vaginal hysterectomy

A 32-YEAR-OLD WOMAN underwent a vaginal hysterectomy. She developed a hematoma and was readmitted a week later for emergency surgery that included a bilateral salpingo-oophorectomy. She was scheduled for drainage of an abscess using interventional radiology, but the abscess ruptured during the preprocedure physical examination. The patient was discharged but returned the next day with serious pulmonary problems.

PATIENT'S CLAIM She chose vaginal hysterectomy to avoid scarring; now her abdomen was scarred from emergency surgery. The drainage procedure should have been performed despite the rupture. She was discharged prematurely after emergency surgery. A different antibiotic should have been prescribed.

PHYSICIAN'S DEFENSE A hematoma is a known complication of surgery. The drainage procedure was unnecessary after the rupture; the patient appeared to improve before she was discharged. Appropriate antibiotics were prescribed.

VERDICT A Ohio defense verdict was returned.

Oxygen deprivation blamed for fetal brain damage

LABOR WAS INDUCED after a mother reported a decrease in fetal movement. The child, age 9 at time of trial, has the developmental, motor, and language skills of a toddler.

PATIENT'S CLAIM The child's grandparents, his legal guardians, claimed the doctors and nurses failed to properly monitor the oxytocin medication given to the mother, leading to oxygen deprivation that caused traumatic brain and neurological injuries.

DEFENDANTS' DEFENSE The case was settled before trial.

VERDICT An Illinois settlement of $7.5 million was reached with the medical center before trial. Claims against the delivering ObGyn are still pending.

PHOTO: SHUTTERSTOCK

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Infection following hysteroscopy

A 38-YEAR-OLD WOMAN underwent diagnostic hysteroscopy. During the procedure, visualization was poor and the gynecologist inadvertently perforated the uterus and rectum. Massive infection developed. Surgery to treat the infection and repair the injury included hysterectomy.

PATIENT'S CLAIM The gynecologist did not properly perform the hysteroscopy, and did not investigate for perforations at the end of the procedure. A small hole in the rectum allowed fecal contents to spill into the abdomen and pelvis, and caused the infection. The patient is now incapable of bearing children.

PHYSICIAN'S DEFENSE The infection that developed came solely from the perforation of the uterus, a known complication of hysteroscopy. The rectal perforation occurred during diagnostic laparoscopy and hysterectomy that was performed to treat the infection.

VERDICT A $650,000 Virginia settlement was reached.

12 lb, 7 oz baby, brachial plexus injury

A DIABETIC MOTHER GAINED 62 LBS during pregnancy. The baby, delivered vaginally, weighed 12 lbs, 7 oz. He suffered a brachial plexus injury, with avulsion injuries at C5, C6, and C7. The child's right hand is in a pronated position; he cannot supinate without using his other hand to assist, despite three operations.

PATIENT'S CLAIM The ObGyn never discussed the risk of a large baby. Three weeks before delivery, ultrasonography estimated fetal weight at 9 lbs, 2 oz. The mother asked if cesarean delivery would be safer; the ObGyn responded that he believed the child weighed less than 10 lbs, and that a vaginal delivery would be appropriate.

PHYSICIAN'S DEFENSE The ObGyn did not offer cesarean delivery because he believed there was no medical necessity for that discussion.

VERDICT A $1,174,365 Ohio verdict was returned.

Despite gastroschisis, neonatal team called *after* birth

ULTRASONOGRAPHY showed fetal gastroschisis with a moderate amount of exposed bowel. The mother went into labor at 38 weeks. Electronic external fetal heart-rate tracing showed fetal bradycardia at 60–70 beats per minute (bpm). When the membranes were artificially ruptured, the amniotic fluid was full of thick meconium. A fetal scalp electrode showed a heart rate of 30–120 bpm; a second electrode confirmed the range.

The baby was delivered vaginally with Apgar scores of 2, 2, and 4 at 1, 5, and 10 minutes, respectively. The newborn was depressed, flaccid, blue, and unresponsive, with thick meconium below the vocal cords.

When the neonatal intensive care unit (NICU) team arrived, the baby was making no respiratory effort, and had a heart rate of 60 bpm. Meconium blocked the airway; he was intubated at 4 minutes of life. Arterial blood sampling showed severe metabolic acidosis from hypoxia. Gastroschisis ruled out fetal cooling, which might have ameliorated the brain injury.

The child suffered hypoxic ischemic encephalopathy from intrapartum asyphyxia that led to microcephaly. He requires a feeding tube and lifetime care.

PATIENT'S CLAIM Knowing that gastroschisis was present, the NICU team should have been called to the patient's bedside before her membranes were ruptured. A cesarean delivery should have been performed when fetal distress was evident.

DEFENDANTS' DEFENSE The case was settled before trial.

VERDICT A $2.8 million Virginia settlement was reached: $1.8 million for the child; $1 million for the mother.

Twin-to-twin transfusion syndrome

A WOMAN EXPECTING TWINS had multiple ultrasonographic studies during pregnancy; all were read as normal. The babies were born prematurely and both died shortly after birth.

PATIENT'S CLAIM The radiologist and two ObGyns failed to correctly analyze the sonograms and diagnose and treat twin-to-twin transfusion syndrome.

PHYSICIANS' DEFENSE The case was settled before trial.

VERDICT A $375,000 Virginia settlement was reached.

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