

# MALPRACTICE CASEBOOK

## Physician denies bleeding caused coagulation problem

**TARRANT COUNTY (TEX) DISTRICT COURT**—When his patient's menorrhagia failed to improve with conservative treatment, a gynecologist performed a hysterectomy. Postoperatively, the woman suffered continued blood loss and died 11 weeks later.

The patient's family sued, claiming that the intractable bleeding led the patient to develop disseminated intravascular coagulation (DIC), which caused the onset of adult respiratory distress syndrome (ARDS). The defendant contended that the woman never developed DIC. He claimed that the patient's pre-existing bacterial endocarditis caused aspiration, which resulted in ARDS.

The jury returned a defense verdict.

## Was obstetrician aware signs of CPD existed?

**BALTIMORE COUNTY (MD) CIRCUIT COURT**—During labor, an Ob/Gyn encountered arrest of fetal descent. He eventually delivered the fetus using forceps and encountered a shoulder dystocia. The infant suffered a fractured collarbone and a brachial plexus injury, resulting in Erb's palsy.

The mother asserted there were indications of cephalopelvic disproportion (CPD), a condition that warrants a cesarean delivery. The physician contended there were no signs of CPD. The patient's records, however, contained notes from the defendant indicating there were "clinical indications of CPD with a small mother and a large baby." He also said shoulder dystocia is a regularly occurring complication of childbirth.

The jury awarded the plaintiff \$425,000.

## Gravida alleges response to HELLP syndrome was delayed

**MORRIS COUNTY (NJ) SUPERIOR COURT**—On May 11, a gravida at 24 weeks' gestation presented to her obstetrician, who diagnosed her with hemolysis, elevated liver enzymes, and low platelet count (HELLP syndrome). Five days later,

she underwent an emergency cesarean delivery of a severely disabled infant.

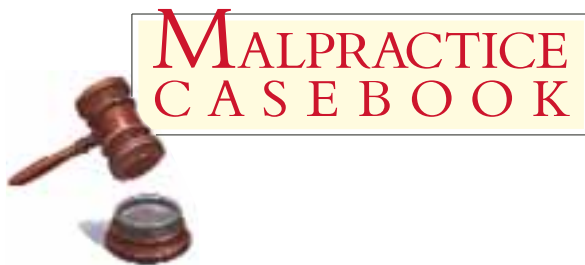
The mother sued, claiming the obstetrician should have recognized the seriousness of the problem when the lab results from May 11 showed elevated enzyme levels and a low platelet count. Additionally, she alleged that once HELLP syndrome was diagnosed, she and the father should have been given the option of immediately terminating the pregnancy because there was a 90% chance the infant would be born with significant disabilities. The defendant asserted he could not have detected her condition at such an early stage.

A \$950,000 settlement was reached.

## Conflicting accounts muddle case questioning placement of cerclage

**KINGS COUNTY (NY) SUPREME COURT**—On May 3, a gravida at 23 weeks' gestation presented to a hospital clinic for a routine prenatal visit, at which time the obstetrician did not perform an internal exam. She presented again 8 days later, when it was determined that her cervix had dilated 2 cm and her membranes were bulging. Following admission, she was confined to bed and scheduled for the placement of a cerclage for an incompetent cervix. However, the procedure was delayed for 5 days, and on May 16, the woman vaginally delivered an infant, who subsequently suffers from spastic quadriplegia, blindness, and delayed mental development.

In suing, the mother claimed that the infant's brain damage was the result of the obstetrician's failure to place a cervical cerclage, which would have prevented preterm labor and delivery. She also asserted that there was no electronic fetal monitoring during labor; had there been, fetal distress would have been detected, allowing for a timely cesarean delivery to prevent hypoxia. Furthermore, the patient contended that an internal exam should have been performed during her visit on May 3, that a pediatrician should have been present during delivery, and that the physician didn't intubate the infant in a timely manner. However, she did concede that most of the baby's



problems were due to his prematurity.

The defendant denied that the gravida presented to the hospital clinic on May 3. Citing the woman's subsequent delivery of another healthy child, the physician argued that she didn't have an incompetent cervix. Rather, the chorioamnionitis caused the preterm labor. He testified that a pediatrician was present at delivery.

The jury returned a defense verdict.

## Was obstetrician negligent for not predicting dystocia?

**COOK COUNTY (ILL) CIRCUIT COURT**—An Ob/Gyn vaginally delivered an infant weighing 10 lb, 11 oz. During the delivery, shoulder dystocia occurred. The child suffered Erb's palsy and Klumpke's paralysis in his right arm. The mother sustained a fourth-degree laceration and subsequently developed a rectovaginal fistula, which required repair.

The woman sued, claiming the Ob/Gyn should have performed a cesarean delivery because of her history of fibroids and obesity, the fetus' accelerated growth rate, and arrest of descent during labor, which required the use of oxytocin. She argued that the physician attempted vacuum extraction without a clinical indication and used improper delivery maneuvers and fundal pressure.

According to the defense, the pregnancy was normal. The fibroids did not pose a problem, and the ultrasounds showed normal fetal growth. In addition to contending that the dystocia was severe and unpredictable, the defendant testified that all delivery maneuvers were correct, fundal pressure wasn't used, and the rectovaginal fistula was a known complication of the repair of a fourth-degree laceration.

The jury returned a defense verdict.

## Did clinic use proper equipment for resuscitation?

**MONTGOMERY COUNTY (MD) CIRCUIT COURT**—A 28-year-old-woman presented to a clinic to undergo an abortion, which was performed successfully under general anesthesia. In the recovery room, the nurses had difficulty waking the patient, so the anesthesiologist prescribed medication to hasten her recovery. The nurses, however, discovered the patient was suffering a hypoxic event due to an obstructed airway. They attempted to oxygenate the patient using a pediatric-sized resuscitation bag

but did not try to intubate her. The patient died 12 hours later due to irreversible brain damage.

In suing, the patient's family claimed that the clinic failed to properly monitor the woman because it did not have a pulse oximeter machine nor enough Dyna-Map machines to monitor her blood pressure. Further, there were no adult resuscitation bags, and the nurses failed to use an EKG machine when trying to resuscitate her. In defense, the anesthesiologist said the nurses did not alert her to any problems, but the clinic nurses said the physician was aware of the patient's problem but failed to check her condition.

In a settlement agreement, the plaintiffs received \$1.3 million.

## Family questions reason for death of mother, fetus

**DALLAS COUNTY (TEX) DISTRICT COURT**—On September 21, a gravida, suffering from severe back pain at term, presented to the emergency room. An ultrasound revealed a mass in front of the patient's uterus interpreted as a hematoma due to blood loss from a leak in the common iliac artery. She underwent an iliac graft and cesarean delivery of a stillborn infant. Seven days later, the woman died from massive organ failure.

The patient's family sued, arguing that the primary obstetricians caused 2 deaths as a result of their failure to diagnose the common iliac artery leak. Denying negligence, the defendants claimed that the woman had Ehlers-Danlos syndrome, a rare genetic disorder, which led to the deaths.

The jury awarded the plaintiffs \$440,514.

## Excessive lateral traction blamed for Erb's palsy

**HILLSBOROUGH COUNTY (MD) CIRCUIT COURT**—A gravida underwent induction of labor, during which shoulder dystocia was encountered. The obstetrician performed 3 different maneuvers in an attempt to release the shoulder and deliver the baby. He eventually was successful.

In suing, the parents alleged that the Ob/Gyn applied excessive lateral traction by pulling the head downward with such force that it tore the nerves in the infant's neck, causing Erb's palsy. In defense, the physician claimed the injury was the result of the natural expulsion forces of labor combined with non-negligent lateral traction, which was necessary for delivery.

The jury awarded the parents \$1.5 million.

*The cases presented here were compiled by Lewis L. Laska, editor of Medical Malpractice Verdicts, Settlements & Experts. While there are instances when the available information is incomplete, these cases represent the types of clinical situations that typically result in litigation.*