

Fetus discovered during hysterectomy

Undisclosed County (Minn) District Court

A woman suffering from irregular and painful menses of unknown etiology presented to a hospital for a hysterectomy. A pregnancy test was not performed, given the patient's 20-year history of infertility.

During the procedure, uterine curettings at frozen section revealed a decidualized benign endometrium, but the pathologist did not find chorionic villi. The operating physician subsequently performed a pelvic examination, during which he discovered an enlarged uterus. Despite 2 findings consistent with pregnancy, the doctor proceeded with the hysterectomy and discovered a fetus of about 12 weeks' gestation. Further pathological review revealed well-developed villi, along with a normal fetus, placenta, and cord.

In suing, the patient claimed that she should have received a pregnancy test prior to undergoing the hysterectomy, despite her history of infertility. In addition, she argued that the decidualized benign endometrium and enlarged uterus should have prompted the doctor to stop the procedure and perform a pregnancy test. The plaintiff further claimed that she would have delivered a viable infant had these standards of practice been followed.

The physician contended that given the patient's history and her claim that she had menstruated 3 to 4 weeks prior, a preoperative pregnancy test was unnecessary. In addition, he claimed, since chorionic villi were not found on frozen section, it was not inappropriate to continue with the hysterectomy.

- The case settled for \$160,000 at mediation.

Scarring develops after cauterization of condylomata

Genesee County (Mich) Circuit Court

A 30-year-old woman presented to her Ob/Gyn with venereal warts. The physician removed them via cauterization. Following the procedure, the patient developed adhesions. She now has permanent scarring and experiences pain during intercourse.

In suing, the woman claimed that cauterization was unnecessary. In addition, she alleged that if she had received timely follow-up care, the adhesions could have been rubbed away.

The physician argued that the cauterization was appropriate. Further, he contended that after-care was indeed scheduled, but the patient failed to make the appointment. The woman's medical files, however, showed no record of any scheduled follow-up.

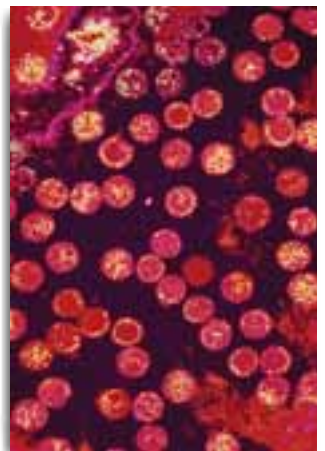
- The jury awarded the plaintiff \$250,000.

Did incomplete ovary removal lead to residual pain?

Queens County (NY) Supreme Court

A woman underwent an abdominal hysterectomy and bilateral salpingo-oophorectomy after a long history of uterine fibroids, dysfunctional uterine bleeding, and pelvic pain.

For a year following the procedure, the patient continued to experience intermittent pelvic and abdominal pain. A laparoscopy revealed a partial left ovary that had not been removed during the initial surgery.



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In suing, the woman alleged that the physician was negligent in his performance of the hysterectomy, leaving the cervix intact and failing to completely remove both ovaries. In addition, the doctor failed to notice the presence of ovarian tissue in several postoperative pelvic sonograms. The woman contended that because she had endometriosis, the retained ovarian tissue heightened her pain.

The physician argued that the patient had a distorted pelvic anatomy, with pelvic adhesions that pulled the fallopian tubes and ovaries out of their normal anatomic alignment. During the surgery, he claimed, the adhesions impeded his ability to tell whether he had completely removed the ovaries. Regardless, the doctor maintained that the woman's residual pain was due to the adhesions, not problems stemming from her hysterectomy.

- The jury returned a verdict for the defense.

Laminaria discovered in uterus 8 years after abortion

Westchester County (NY) Supreme Court

A 19-year-old female presented to a woman's center for an abortion. On the first day of the 2-day procedure, the physician inserted 3 laminaria into the patient's vagina in order to stretch the cervix. The following day, a second physician performed the abortion under real-time ultrasound.

Eight years later, the patient experienced severe cramping and bleeding, which led to a laparoscopy. Clinicians discovered that the laminaria used during the abortion remained inside the woman.

In suing, the plaintiff claimed that she suffered cramping and heavy bleeding during menstruation as well as pelvic pain for the full 8 years between the 2 procedures. She contended that the first doctor, who had since deceased, inserted the laminaria into her uterus, rather than her cervix. She further

maintained that the physician who performed the abortion was also negligent for not discovering and removing the laminaria.

The doctor who performed the abortion argued the deceased doctor misplaced the laminaria; since there was no trace of them on ultrasound, he assumed they had discharged spontaneously. The defense for the deceased physician claimed the second doctor was fully responsible for not removing the laminaria.

- The jury found both defendants liable and awarded the plaintiff \$200,000.

Did delayed UTI treatment lead to death?

Undisclosed County (Mo) Circuit Court

A 67-year-old woman presented to a hospital for total knee replacement surgery. Urine cultures taken prior to the procedure indicated the presence of *E. coli*, prompting physicians to place her on preoperative antibiotics. Postoperatively, the patient experienced seizures, which a neurologist was called in to control.

She was then admitted to a rehabilitation center where it was discovered that she had a fractured hip. Prior to the surgical repair of her hip, she was treated for a urinary tract infection (UTI) with antibiotics. Postoperatively, she developed seizures and went into renal failure. Results from a urine culture revealed 3 different strains of *Pseudomonas*, undetected before the surgery. She died soon after.

In suing, the patient's husband claimed the physicians' failure to diagnose and treat the *Pseudomonas* urinary tract infection and to effectively manage her kidney failure caused the woman's death.

The doctors claimed that the patient did not have a UTI, but rather a colonization or asymptomatic bacteriuria. Further, they contended that the patient's death was due to complications of her hip fracture.

- The jury awarded the plaintiff \$1.2 million.

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Rectovaginal fistula follows vaginal delivery

Kings County (NY) Supreme Court

A woman underwent an episiotomy during the delivery of her first child. After the procedure, she developed a rectovaginal fistula and complained of stool coming from her vagina. Her condition continued for 5 years until it was surgically repaired. Postoperatively, the woman was incapacitated for 3 months.

In suing, the woman claimed that the physician failed to recognize that he had cut into her rectum during the episiotomy.

The physician contended that the fistula was caused by either a deep hematoma under the sutures or a subclinical infection that developed from suture granuloma.

- The jury returned a verdict for the defense.

Hysterectomy follows delayed treatment of sepsis, ARDS

Undisclosed County (Va) Circuit Court

After delivering her second child, a 26-year-old woman experienced distress and severe pain, which clinicians attributed to pubic symphysisitis and hemorrhoids. She was treated with diazepam and pain medication, to little avail.

Despite the patient's continued complaints of severe pain and a call by the nursing staff requesting his return to the hospital, the obstetrician did not examine the patient, but instead ordered more pain medication. The woman then developed a fever of 101.5°, and her pulse dropped to 70/45. The physician, by phone, ordered a blood culture assay, which was abnormal.

Later that evening another physician was called in and noted that the woman was going into shock. She was transferred to the intensive care unit (ICU). After stabilizing, she underwent an emergency hysterectomy. For the next 5 weeks she remained in the ICU

recovering from group A sepsis and adult respiratory distress syndrome (ARDS).

The patient argued that had antibiotics been administered earlier, an emergency hysterectomy could have been avoided.

The obstetrician contended that the infection spread too quickly for surgery to have been prevented.

- The jury awarded the plaintiff \$625,000.

Did untimely breast cancer diagnosis lead to death?

Wise County (Va) Circuit Court

A woman presented to her Ob/Gyn with a history of amenorrhea, along with breast tenderness and inflammation. The physician treated the patient's amenorrhea and referred her to a radiologist for a mammography.

The radiologist reported that the mammography and manual breast exam were normal. Shortly after, the woman changed physicians. During a visit, the new doctor found a breast mass and ordered a biopsy. Following the procedure, the woman underwent a right mastectomy, followed by 2 years of chemotherapy and radiation. She subsequently died.

In suing, the patient's family claimed that if a prompt diagnosis had been made, she would have had a 70% chance of being cured.

The physician maintained that even if the cancer had been diagnosed earlier, the outcome would have been the same.

■ The jury returned a verdict for the defense. ■

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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.

