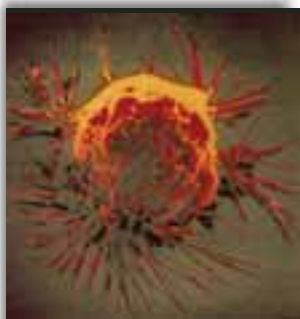


Delayed diagnosis leads to stage IV breast cancer

Richmond County (NY) Supreme Court

A 41-year-old woman underwent a mammogram and sonogram. The mammogram was normal while the sonogram revealed 3 small cysts. One year later, she went to an Ob/Gyn for a breast exam and no abnormalities were discovered.

Two years after that, the patient felt a mass in her left breast tissue. A biopsy revealed stage IV breast cancer that had spread to her lymph nodes, sternum, and sacrum bone structures. Over the next 8 months the cancer spread



Breast cancer cell

through 15 sites in her bones, lungs, and right breast. She continues to be treated with chemotherapy.

In suing, the woman claimed that the physician told her the cysts revealed by the sonogram were benign and that a follow-up mammogram and sonogram were not recommended. She further argued that had the breast cancer been diagnosed 2 years earlier, she would have had an 85% to 95% cure rate.

The physician contended that he did indeed recommend that the patient get a follow-up mammogram and sonogram, and continue to perform monthly self-exams. The physician further argued that the cysts shown in the sonogram were benign and unrelated to the cancer. In addition, the doctor claimed that had the patient not missed a yearly follow-up

visit and mammogram, the breast cancer would have been diagnosed earlier.

The jury found that while the physician did indeed order a follow-up mammogram and sonogram, it was his responsibility to ensure the patient completed the tests as ordered.

■ The jury awarded the plaintiff \$15 million, which was subsequently settled for a confidential amount.

Perforated cervix leads to pain, infertility

Cook County (Ill) Superior Court

A 26-year-old woman presented to a clinic for an elective first-trimester abortion. During the procedure, the physician encountered cervical stenosis and referred the patient to another facility so that the abortion could be performed under general anesthesia. The procedure was conducted 5 days later.

Seven months later, the woman went to another physician with complaints of painful intercourse and bowel movements. She ultimately underwent a laparoscopy for the pain. During the procedure, the operating physician discovered a false passage or perforation of the cervical canal that led to an infected mass on the posterior cul-de-sac.

In suing, the woman claimed that the physician who performed the abortion caused the perforation and failed to prescribe antibiotics. She allegedly continues to suffer from painful intercourse and bowel movements, as well as infertility.

The physician contended that false passages or perforations do not become infected and will eventually heal spontaneously. In addition, the doctor argued that antibiotics were not the standard of care for treating false

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passages and therefore not necessary postoperatively. The physician further alleged that the patient's pain was a result of a fibroid tumor and that the plaintiff—who took oral contraceptives for over 6 years—may be less fertile because of cervical stenosis.

- The jury returned a verdict for the defense.

Uterus, rectum perforated during dilatation and curettage

District of Columbia Superior Court

An 81-year-old woman presented to her Ob/Gyn for dilatation and curettage (D&C). During the procedure, the patient's uterus and rectum were perforated, requiring an emergency laparotomy repair.

In suing, the woman claimed that she was not informed of the possible risks of the procedure.

The physician contended that uterine perforation is a known risk of D&C. Further, the physician argued that the woman's retroverted uterus, diverticular disease, advanced age, and adhesions between the rectum and uterus all contributed to the perforation.

- The case settled for \$350,000.

Bladder perforation missed during laparoscopy

Cook County (Ill) Circuit Court

A 34-year-old woman underwent a diagnostic laparoscopy due to suspected endometriosis.

Following the procedure, the woman was sent home despite failure to void. Once home, she complained of severe abdominal pain, along with excessive fluid draining from the incision site. The patient's husband called the nurse for assistance. The nurse was told by the doctor to prescribe Tylenol #3.

A few hours later, the woman went to a hospital where she was diagnosed with a perforated bladder, peritonitis, and disseminated intravascular coagulation (DIC).

She required a laparotomy to suture the bladder perforation.

In suing, the woman claimed that the physician failed to recognize the perforation and sent her home despite her inability to void. She further contended that the physician did not handle the emergency call properly.

The physician contended that bladder perforation was a known complication of the procedure. Further, the doctor argued that since postoperative pain is expected, the phone call was handled properly.

- The jury awarded the plaintiff \$409,090.

Did failure to respond to nausea, discomfort lead to infant's death?

Du Page County (Ill) Circuit Court

A 19-year-old woman at 26 weeks' gestation—serving a 60-day sentence at a county jail—was transferred to a hospital due to labor pain and contractions. At the hospital, an Ob/Gyn ruptured her membranes. Subsequently, the patient had a placental abruption. An emergency cesarean was performed. Despite resuscitation efforts, the infant died 49 minutes after delivery.

In suing, the patient alleged that she complained to a nurse of nausea and discomfort hours before she was sent to the hospital, but the nurse failed to provide any medical assistance.

The nurse argued that the woman did not complain to jail medical staff until she began experiencing contractions. In addition, the defense contended that the infant died due to oxygen loss during the placental abruption, which took place at the hospital.

- The jury returned a verdict for the defense.

Labial tear leads to partial labia removal

Nassau County (NY) Supreme Court

A 37-year-old woman presented to her Ob/Gyn for the delivery of her child in

July 1997. Six weeks later, she returned to the delivering physician's partner for the repair of a hole in her labia minora.

In December 1997, the physician performed a surgical tissue repair. At a follow-up visit in January, the physician noted that the tear had not healed and thought it may have been the result of a reaction to the suture.

In March, the physician performed a second repair using a different suture material. At a follow-up visit, the doctor reported that the area was healing well. However, the woman presented to another doctor in April with complaints that the tear had reopened. A third surgery was attempted without success. Several more attempts to close the hole were performed. In October, the physician removed a portion of the labia to remedy the problem.

In suing, the patient claimed that the delivering physician did not notice the labial tear following delivery and as a result did not repair it in a timely fashion. The woman also argued that the physician who attempted to repair the tear did not use proper technique.

The delivering physician claimed that the patient's tear following delivery was not recognizable. The doctor who attempted the repairs argued that he used appropriate technique, and further alleged that the patient's poor healing pattern and the vascular condition of her labia compromised her ability to heal properly.

■ The jury returned a verdict for the defense.

Did uterine hyperstimulation result in infant's brain damage?

Undisclosed County (Calif) Court

A woman at 42 weeks' gestation presented to her Ob/Gyn for induction of labor. The physician artificially ruptured her membranes at 7:40 a.m. and returned at noon to examine her. He then left the patient in the care of hospital nursing staff. At some point in the day, a nurse administered oxytocin to induce labor.

Upon delivery at 10 p.m., the nurse-midwife, but not the physician, was present. The baby was limp, blue, and not breathing. Another physician entered the delivery room and revived the baby. However, the infant now suffers from brain injury, neuromotor deficits, and pituitary stalk interruption syndrome.

In suing, the woman claimed that the administration of oxytocin led to uterine hyperstimulation and fetal distress. The woman also alleged that the nursing staff, nurse-midwife, and her Ob/Gyn did not respond in a timely fashion, despite signs of fetal distress earlier in the day.

The hospital staff claimed that the care provided to the patient was proper and that oxytocin administration did not cause uterine hyperstimulation. The medical staff alleged that the infant's condition was congenital.

■ After mediation, the case settled for \$2.5 million.

Did failure to disclose abnormal mammogram lead to death?

Kings County (NY) Supreme Court

A 41-year-old woman underwent a mammogram, which was read as abnormal. A surgical biopsy was recommended, but was not performed until a much later date. Two years later, the woman was diagnosed with breast cancer that had metastasized to her bones. She died 3 years later.

The physician contended that the patient's cancer spread as a result of her failure to return for follow-up visits.

The patient's family, however, claimed the woman was not told of her abnormal mammogram results, nor was she informed of the need for follow-up visits.

■ The case settled for \$1.7 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.