

Did delayed cesarean cause cerebral palsy in breech twin?

Summit County (Ohio) Common Pleas Court

Upon discovering a breech presentation for the second fetus in a set of twins, an obstetrician attempted to rotate the infant for a vaginal delivery. In the process, the child's umbilical cord wrapped around his neck, causing heart-rate decelerations.



Breech presentation

Nineteen minutes passed before the child was delivered by cesarean section, by which time he had suffered severe anoxia leading to cerebral palsy.

The infant plaintiff claimed the delay in cesarean delivery led to his injuries.

The physician maintained proper care was administered, and that the child's injuries were known risks of breech birth.

- The jury awarded the plaintiff \$3.3 million.

Brain damage follows induction for wrongly suspected macrosomia

Palm Beach (Fla) County Circuit Court

Suspecting macrosomia severe enough to impede normal vaginal delivery, an obstetrician induced early labor, using forceps to deliver the infant.

At birth, however, the child weighed just 6 lbs and suffered severe brain damage. He spent the following 3 weeks in the neonatal intensive care unit, and subsequently underwent 14 surgeries to his brain and spine. He requires constant care due to severe physical and neurologic impairment.

The plaintiff claimed the physician was negligent in inducing early labor and used an improper forceps technique known to be associated with a higher risk of brain damage.

The defense maintained the child's injuries were congenital.

- A jury awarded the plaintiff \$63 million.

Was decreased fetal movement mishandled?

Suffolk County (NY) Supreme Court

Five weeks before her due date, a 28-year-old gravida reported decreased fetal movement and no activity during a kick test. A physician performed a biophysical profile and noted a score of 8 out of 10 with a nonreactive stress test. The woman was sent home and advised to inform the group of any additional changes in fetal movement.

She contacted the group 5 days later, again noting an absence of fetal movement. At the hospital, another physician in the group was unable to detect a fetal heart rate. Another 3 and a half hours passed before the doctor delivered the child by cesarean section.

Though born with an Apgar score of 9, the child was hypoglycemic and acidotic, and later diagnosed with periventricular leukomalacia. Age 6 at the time of the trial, she suffers from seizures, spastic quadriplegia, and cortical blindness.

The plaintiff alleged that the first physician misread the biophysical profile and the second physician was negligent in delaying cesarean delivery after failing to detect a heart-beat. All 3 group members were cited for not responding appropriately to the mother's initial complaint of decreased fetal movement.

The defendants maintained the biophysi-

cal profile was correct. They argued that, in light of the high Apgar score at birth, the child's condition likely stemmed from a chronic condition precipitated by placental insufficiency several weeks before delivery.

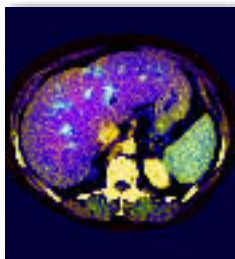
■ The jury awarded the plaintiff \$111.7 million. A high/low agreement reached prior to the verdict reduced the award to \$6 million.

Mother dies after cesarean: Was overdose to blame?

Montgomery County (Ohio) Court of Common Pleas

At 31 weeks' gestation, a 31-year-old gravida reported to her obstetrician's office with complaints of vomiting. In the absence of the doctor, who was on vacation, a nurse administered hydroxyzine and promethazine and sent the woman home.

Three days later the woman again presented, still reporting vomiting. The since-returned physician ordered immediate transfer to the hospital, where he delivered a healthy male infant via emergency cesarean. He prescribed 25 mg of meperidine for pain.



Fatty liver

Shortly after hospital staff loaded a 300-mg meperidine pack into a patient-controlled analgesia machine, the woman went into respiratory arrest. Though resuscitated, she suffered severe brain damage.

The woman was also found to have fatty liver disease, and thus underwent a successful liver transplant. A week later, however, she died as a result of the brain injury.

In suing, the woman's family claimed the woman's hypoxic event stemmed from meperidine overdose. They also argued that the nurse was negligent in administering hydroxyzine and promethazine without the doctor's consent.

The defense noted that the nurse had a standing order from the physician to treat pregnancy-related emesis with hydroxyzine

and promethazine. They also argued that the liver disease, not meperidine overdose, was responsible for the respiratory event.

■ The jury returned a defense verdict.

Did negligence cause bladder injury at cesarean?

New York County (NY) Supreme Court

Due to a prolonged labor, an Ob/Gyn attempted vacuum then forceps delivery on a 35-year-old woman delivering her first child. When both interventions were unsuccessful, the physician opted for a cesarean section and delivered a healthy infant.

During the procedure, the mother suffered multiple bladder perforations, which caused urinary incontinence and sexual dysfunction.

She claimed the doctor was negligent in separating her bladder and uterus with Metzenbaum scissors.

The defense noted that due to adhesions from a prior abdominal cystectomy, the cesarean was especially difficult.

■ The jury returned a defense verdict.

Bleeding, death follow D&C

St. Louis County (Mo) Circuit Court

Although begun on local anesthesia, a 49-year-old woman with a history of diabetes was switched to general anesthesia in the course of a dilatation and curettage (D&C).

Profuse hemorrhaging occurred during the procedure, causing reduced blood flow to the brain. Though resuscitated at that time, the woman died the following month due to irreversible brain damage.

In suing, her husband noted that the woman's diabetes placed her at increased risk for blood loss. Further, he noted, blood tests taken 2 days prior to surgery revealed low hematocrit and hemoglobin levels. Together, these factors should have alerted medical staff to the possibility of intraoperative hemorrhage, prompting them to better prepare for such an event.

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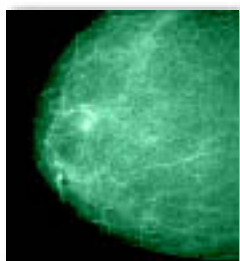
The defendants noted that bleeding can occur independent of negligence, and maintained that proper care was given.

■ The defendant physicians settled for \$1.2 million. The defendant hospital settled for an undisclosed sum.

Patient not told of irregular mammography

Undisclosed County (Minn)

During a routine mammogram, a suspicious mass was noted, prompting the patient to undergo a biopsy. No cancer was detected. Following 2 postoperative visits, the woman was told to return a year later.



Ductal carcinoma on mammogram

At mammography the following year, residual density was noted at the biopsy site. A follow-up mammogram was recommended, but though the physician examined the patient the following week, another mammogram was not conducted for 5 months. At that time the woman noted itching, thickening, and slight indentation of the breast.

The study revealed a 3-cm lesion, and surgical removal was recommended. However, the physician never told the patient of the irregularity, instead advising her to return in 6 months.

Five months later, the patient had moved from Minnesota to Nevada, where a new physician noted a breast mass on palpation and ordered a biopsy. The diagnosis was poorly differentiated Stage II ductal carcinoma. She underwent chemotherapy and radiation treatment, and at the time of the trial was disease free.

In suing, the woman alleged that had the defendant physician diagnosed her cancer in a timely fashion, she could have avoided radiation therapy and would have had a higher chance of cure.

■ The jury awarded the patient \$640,000.

Silver-Russell dwarfism follows undetected pregnancy

New York County (NY) Supreme Court

A 44-year-old woman with a deformed uterus (due to diethylstilbestrol exposure in utero) presented to a medical center for hormone replacement therapy. At that time she was told pregnancy was impossible, and that she did not need contraceptives.

During a scheduled exam, symptoms typical of pregnancy were noted, but attributed to menopause. The nurse practitioner conducting the pelvic exam did not palpate the woman's enlarged uterus.

Approximately a month and a half later, a computed tomography scan was performed to rule out an abdominal tumor. At that time it was discovered that the patient was 6 and a half months pregnant.

The woman delivered a baby girl with Silver-Russell dwarfism, which will require a multiple surgeries, hormone treatments, and physical therapy.

The patient claimed the defendants were negligent in failing to diagnose her pregnancy in a timely manner, eliminating her option to terminate the pregnancy if desired. Further, she maintained that the child's condition stemmed from prenatal exposure to hormone replacement therapy, computed tomography, and prescription drugs.

The defendants denied the patients claims.

■ The case settled for \$1.7 million.

Mother dies following cesarean for fetal demise

San Bernardino County (Calif) Superior Court

Complaining of decreased fetal movement and cramping, a 36-year-old gravida with a prior cesarean presented to a hospital with a fever. A sonogram revealed fetal demise. Labor induction was scheduled for 5 days later, and the patient was sent home.

Two days later, the woman returned to the

hospital with pain and bleeding, but was sent home and instructed to return for the scheduled induction. That same night, however, she once again presented, demanding the fetus be delivered. Blood tests revealed a white blood cell count of 9,900 with 88.7% neutrophils.

The physician attempted to deliver the child vaginally, but the mother insisted on a cesarean section. When the fetus was delivered by cesarean the following morning, placenta previa and placenta accreta were discovered.

Postoperatively, the woman suffered heavy vaginal bleeding. Despite the administration of packed red blood cells, she was later found in septic shock. She died that night. Autopsy revealed placental remains in the uterus.

In suing, the woman's family alleged that the physician was negligent in not initiating cesarean delivery sooner. Had the fetus been delivered 2 days earlier, they claimed, the mother would have survived.

The defendant physician argued that the patient died not of sepsis, but of bleeding due to the placenta accreta—a condition the doctor was powerless to treat. She maintained that the scheduled delivery date was appropriate given the woman's symptoms.

- The jury awarded the plaintiff \$4 million

D&C, fetal death follow missed pregnancy

Summit County (Ohio) Circuit Court

Due to a missed period, a woman presented to her Ob/Gyn, who conducted an ultrasound. He diagnosed a blighted ovum and ordered no further tests. Per his recommendation, the woman underwent a D&C procedure.

Two weeks later, the woman delivered a deceased 3-inch fetus. A second D&C was required to remove the remaining products of conception. The plaintiffs sued, alleging emotional distress. The physician did not deny negligence, but questioned the level of distress the incident caused.

- The jury awarded the plaintiffs \$220,000.

Trocar use blamed for bowel perforation

Oakland County (Mich) Circuit Court

A 32-year-old woman underwent laparoscopy for the treatment of endometriosis. During the course of surgery, a trocar caused a 5-mm perforation in the woman's bowel. A general surgeon successfully repaired the injury, leaving a 3- to 4-inch scar on her abdomen.

In suing, the patient claimed that the defendant should have used a Veress needle instead of a trocar to reduce the risk of bowel injury.

The defense maintained either instrument was appropriate, and noted that such injury is a known complication of the procedure.

- The court directed a defense verdict.

Diagnostic laparoscopy leads to bowel injury

Kings County (NY) Supreme Court

Due to complaints of crural pain, a 38-year-old woman with a history of uterine fibroids underwent diagnostic laparoscopy; she was discharged that day.

She returned to the hospital via ambulance 2 days later, and was diagnosed with acute peritonitis. It was revealed that she had suffered a bowel perforation during the laparoscopy.

In suing, the woman claimed that her surgical history—3 prior abdominal procedures—contraindicated the laparoscopy.

The defense maintained that the procedure was appropriate given the circumstances, and that bowel perforation is a known complication.

- The jury returned a defense verdict. ■

The cases in this column are selected by the editors of OBG MANAGEMENT from Medical Malpractice Verdicts, Settlements & Experts, with permission of the editor, Lewis Laska, of Nashville, Tenn. (www.verdictslaska.com) While there are instances when the available information is incomplete, these cases represent the types of clinical situations that typically result in litigation.