

## Woman delivers twins: one white, one black

### New York County (NY) Supreme Court

A 37-year-old white woman was implanted with what she thought were her own fertilized embryos. Her husband, who contributed the sperm, was also white. She gave birth to 2 healthy baby boys: 1 white and 1 black.

Further investigation revealed that the plaintiff had inadvertently received an embryo from a black woman who was present at the clinic at the same time for fertilization with her own embryos.

The black infant was returned to his parents 5 months after delivery, but a custody suit ensued. The embryologist admitted he had inserted some embryos from the black woman into the catheter that was used to implant the white woman.

- A confidential settlement was reached.

## Colostomy required after oophorectomy

### Undisclosed venue (Mich)

A woman complaining of tenderness in the right upper quadrant went to her gynecologist, who attributed the pain to a left ovary cyst. Despite the lack of further testing, the physician said the cyst was cancerous and recommended immediate removal. The woman consented to a laparoscopic oophorectomy.

The inferior epigastric artery was severed by the third-year resident who performed most of the procedure. After surgery, the woman had abdominal pain leading to distension, guarding, and tympany. She was unable to have a bowel movement or void, and a fever developed, leading to peritonitis/sepsis.

After her physician diagnosed ileus, a surgical consult on the 5th postoperative day revealed an immediately obvious 2-cm hole in the sigmoid colon. Because of the delay, the hole could not be repaired safely, and a colostomy was performed. Many abdominal surgeries were needed to remove necrotic bowel, drain abscesses, and reconstruct the abdominal wall.

In suing, the plaintiff alleged negligence in the failure to immediately detect the perforation during the initial procedure. She also claimed the oophorectomy was unnecessary and argued that the ovarian cyst would have resolved spontaneously over time.

The defendant argued that the woman had a “delayed rupture” of the colon.

- The case settled for \$1 million at mediation.

## Vaginal delivery leads to quadriplegia

### Suffolk County (NY) Supreme Court

A third-trimester sonogram showed the fetus in an oblique transverse lie, indicating possible breech presentation, along with hyperextension of the fetus’ spinal cord, indicating the fetus was at high risk for neck injury from a vaginal delivery. The radiologist conveyed the sonogram findings to a nurse, but not the woman’s obstetrician.

The next day the woman began having contractions and went to the emergency room. No attempt was made to obtain the sonogram from the day before. Despite a double-footling breech presentation, the obstetrician elected not to perform a cesarean section. After vaginal delivery, the infant was quadriplegic and had severe hypoxic brain damage.

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In suing, the woman claimed her physician was negligent in choice of delivery and that the flexing and rotating of the infant's head caused a near-complete transection of the spinal cord.

- The case settled for \$11.8 million.

## **Did delayed cesarean cause uterine rupture?**

### **Plymouth County (Mass) Superior Court**

A woman was admitted in the evening for induction of labor for a planned vaginal birth after cesarean (VBAC) delivery. Normal labor did not ensue after oxytocin was administered in the morning, and the fetal heart rate monitor strips revealed uterine hyperactivity and fetal distress, which worsened during the day.

The nurse assigned to the woman asked the charge nurse for advice; she was told to call the obstetrician. The physician claimed the labor was progressing satisfactorily and ordered continuation of the oxytocin. After alerting the charge nurse at 3:30 PM, the evening shift nurse and the charge nurse stopped the oxytocin at 4:00 PM and called the obstetrician at 4:10 PM. The physician returned to the hospital but did not order a cesarean until 20 minutes later.

The infant had a seizure shortly after birth, and the physician diagnosed hypoxic brain injury as a result of uterine rupture. The baby died 3 weeks later.

In suing, the woman claimed she was not advised of the risks of VBAC delivery, that the charge nurse failed to recognize early signs of fetal distress, that a cesarean should have been ordered much earlier in the day, and that it was negligent to allow labor to continue into the afternoon.

The obstetrician claimed the infant was healthy during early labor and faulted the evening nurse for not calling him back to the hospital sooner. The nurses claimed the physician had superior knowledge and said they could not be expected to recognize distress on the fetal monitor if the obstetrician could not.

- The parties reached a \$1.25 million settlement.

## **Insufficient testing for thalassemia carrier?**

### **Undisclosed Massachusetts venue**

A woman of Mediterranean descent with chronic anemia presented to a nurse practitioner for a birth control injection. In the woman's chart—which the supervising physician also signed—the nurse practitioner expressed concern that the patient might suffer from thalassemia, but the clinicians did not evaluate her condition or advise her of the pregnancy risks associated with the disorder.

Two years later the woman became pregnant. At her first prenatal visit, both her family history and blood work were noted to be worrisome relative to thalassemia. Again, however, no steps were taken to evaluate either mother or fetus.

The woman gave birth to an infant daughter who was subsequently diagnosed with thalassemia major, which requires her to undergo blood transfusions every 4 weeks and will likely shorten her life expectancy.

In suing, the plaintiff argued that clinicians should have tested the mother and father for the thalassemia trait, which both were found to have after the child's diagnosis. Further, she claimed, tests should have been performed to determine whether the fetus had the disorder.

The defense argued that the incidence of thalassemia transmission from mother to fetus is very low and maintained the woman was aware of her status as a thalassemia carrier and knew the risks involved with pregnancy.

- The parties settled for \$900,000. ■

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