

OB blames disability on mother's language

A woman diagnosed with group B strep at 32 weeks' gestation had spontaneous rupture of membranes at 36 to 37 weeks and developed a fever during labor and delivery. Several hours into labor, severe variable decelerations were noted and the infant was delivered by cesarean section. Within hours, the infant developed sepsis. The child survived, but suffers from learning disabilities.

PATIENT'S CLAIM The mother should have been given antibiotics before labor.

DOCTOR'S DEFENSE The physicians never received the lab report showing the test result. The child's learning disability was not caused by any birth event, but by the mother's use of her native Farsi at home.

VERDICT After mediation, the parties reached a \$962,000 settlement.

Did doctors miss signs of chorioamnionitis?

A 30-year-old woman presented to the emergency room at 25 weeks' gestation, complaining of abdominal pain. After examining her, doctors decided hospitalization was unnecessary. Nine days later, she returned to the hospital and reported vomiting and vaginal spotting. Immediate cesarean section was performed. The child was later diagnosed with mental and physical disabilities, including developmental delays and spastic quadriplegia.

PATIENT'S CLAIM The disabilities and premature birth were caused by an undiagnosed antepartum infection, and the chorioamnionitis should have been detected at the first emergency room visit. Prompt diagnosis and treatment would

have prevented the adverse outcome.

DOCTOR'S DEFENSE The child's injuries were unavoidable.

VERDICT \$1.2 million settlement.

"Postop gas, constipation led to divorce"

A 34-year-old woman underwent laparoscopic tubal ligation. After the surgery, she developed a hernia, which was repaired via laparotomy.

PATIENT'S CLAIM The original surgery caused chronic constipation and gas and contributed to the patient's divorce. The physician caused the hernia by failing to stitch the fascia closed.

DOCTOR'S DEFENSE It was not necessary to suture the fascia closed. The hernia occurred through an adhesion and below the fascia, so a stitch would not have prevented it. The patient's marriage was in peril before the tubal ligation was performed.

VERDICT Defense verdict.

Missed tubo-ovarian abscess leads to death

A 42-year-old woman with anemia and complaints of generalized abdominal pain and heavy bleeding was referred to an ObGyn, who performed an endometrial biopsy and concluded that her pain and bleeding were caused by fibroids. A hysterectomy was scheduled, and pain medication was prescribed. When ultrasound imaging revealed a cyst, more pain medicine was prescribed, and the date for the hysterectomy was moved up. Blood tests showed extremely elevated white blood cell

levels, indicative of infection, but the doctor did not receive results for several days.

The day after the patient visited the ObGyn, she collapsed at home and was taken to a hospital, where she died a few hours later. An autopsy revealed the death was due to sepsis from a right tubo-ovarian abscess. No fibroids were present.

PATIENT'S CLAIM The ObGyn was negligent in failing to examine the patient the day before her death, despite her report of severe pain. Furthermore, the physician caused the tubo-ovarian abscess at the time of the endometrial biopsy.

DOCTOR'S DEFENSE The diagnoses of uterine fibroids, possible ovarian cyst, and urinary tract infection explained all the patient's symptoms, none of which were consistent with tubo-ovarian abscess.

VERDICT The jury ruled for the defense.

\$12 million verdict despite counseling

A woman delivered an infant with spina bifida, who requires lifelong treatment.

PATIENT'S CLAIM The mother was not informed of the need for alpha-fetoprotein testing to detect neural tube defects and Down's syndrome, and a nurse telephoned her to say the test was unnecessary because the woman was not at risk. As a result, the parents were denied the opportunity to have the pregnancy terminated.

DOCTOR'S DEFENSE The practice group's records noted that test information was provided during a visit the previous year. The child's problems were genetic and could not have been avoided.

VERDICT \$12 million verdict.

5 operations needed after prolapse repair

A 51-year-old woman suffering from vaginal prolapse underwent pelvic reconstruction in January and continued under the surgeon's care until May, when she was advised to return to the referring ObGyn.

In June, she was found to have grossly distorted vaginal anatomy and infection, necessitating 5 additional operations.

PATIENT'S CLAIM The surgeon was negligent, failed to obtain informed consent, misrepresented the success rate of the procedure, and concealed the true condition of the vagina at the time of discharge. In addition, a mesh used to reinforce the anterior, apical, and posterior compartments of the vagina became infected, causing the distortion. The patient should have been treated with intravenous antibiotics and/or removal of the mesh.

DOCTOR'S DEFENSE Two prior reparative procedures had already been performed by the time he operated. The patient suffered not from infection, but from a reaction to the mesh, a foreign body.

VERDICT Defense verdict.

Did doctors treat UTI properly?

An 18-year-old woman in her 28th week of gestation presented to the hospital reporting decreased fetal movement. Urinary tract infection was diagnosed after leukocytes were detected in the woman's urine. She was prescribed a 3-day regimen of antibiotics and discharged. Ten days later, she returned to report 2 episodes of vaginal bleeding. After reassuring fetal monitoring, the woman was again discharged.

About 5 days later, the woman returned and was diagnosed with prolonged preterm rupture of membranes, with contractions at 4- to 5-minute intervals. The woman was monitored over 17 hours, and her contractions lessened in frequency. When the fetus showed signs of bradycardia, cesarean section was performed. The child was diagnosed with severe mental retardation, cortical blindness, and spastic quadriplegia. The child is confined to a wheelchair and requires constant medical care and rehabilitation.

PATIENT'S CLAIM The urinary tract infection was not treated properly, and eventually led to ruptured membranes. A cesarean section

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should have been performed sooner.

DOCTOR'S DEFENSE The urinary tract infection caused the infant's problems.

VERDICT \$5 million settlement.

One twin dies, the other is severely handicapped

A woman pregnant with twins, who was using a fetal monitoring service at home, reported to the hospital at 29 weeks' gestation because she was experiencing contractions. She was seen by a physician who reported she was less than 2-cm dilated. She was transferred to another facility; upon arrival, she was 4-cm dilated, and was given tocolytics to delay labor.

One child was delivered with respiratory distress syndrome, intracranial hemorrhage, and hydrocephalus, and the other infant died. The surviving twin, who is now 17 years of age, suffers from cerebral palsy, spastic quadriplegia, cortical blindness, and severe mental retardation. She is confined to a wheelchair, requires a feeding tube, and will need lifelong care.

PATIENT'S CLAIM The physician at the initial facility failed to administer tocolytics in time to prevent premature delivery.

DOCTOR'S DEFENSE There were no signs of labor, and administering tocolytics would not have prevented premature labor.

VERDICT \$3 million settlement.

Patient delivers after D&C

A woman reported to the emergency room with severe abdominal pain, bleeding, and fever. Testing revealed she was 4 to 5 weeks pregnant. An OB performed a D&C. She gave birth to an unwanted child 7 months later.

PATIENT'S CLAIM The physician failed to tell her she was still pregnant after the D&C and did not provide her with follow-up instructions.

DOCTOR'S DEFENSE The physician performed the D&C not to terminate the

pregnancy but to treat pelvic inflammatory disease and to remove remnants from a previous septic miscarriage. Subsequent testing confirmed that products of conception consistent with a nonviable pregnancy had been removed. The physician also claimed the patient was advised to report back to his office in 1 to 2 weeks to seek care for her pregnancy. Initially, the patient claimed she never received instructions to report back to the office for care; however, during testimony, she admitted to receiving instructions but could not recall them.

VERDICT Defense verdict.

Retained placenta leads to hysterectomy

A 40-year-old woman, acting as a surrogate for her brother and sister-in-law, gave birth to twins. Six weeks later, she underwent a hysterectomy.

PATIENT'S CLAIM The obstetrician failed to completely remove the placenta after the cesarean section, resulting in the hysterectomy 6 weeks later.

DOCTOR'S DEFENSE The failure to remove all of the placenta was not negligent, and the woman had placenta increta, which made it difficult to completely remove the placental tissue.

VERDICT The hospital settled for \$125,000; the jury awarded the plaintiff \$1.2 million against the physician. ■

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, Nashville, Tenn (www.verdictslaska.com). The available information about the cases is sometimes incomplete; pertinent details may be unavailable. Moreover, the cases may or may not have merit. Still, these cases represent types of clinical situations that may result in litigation and are meant to illustrate variation in verdicts and awards. Any illustrations are generic and do not represent a specific legal case.

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