Obese mother gains another 60 lb before delivery

AN OBESE WOMAN with a family history of diabetes had previously given birth to a large baby. Even though she expressed her concern that this fetus would also be macrosomic, the ObGyn planned for spontaneous vaginal delivery. At 39 weeks' gestation, after gaining 60 lb, she went to the hospital requesting induction of labor; the ObGyn reluctantly agreed. Labor was lengthy, forceps-assisted delivery was performed, and a shoulder dystocia was encountered. The baby was born with respiratory distress, a brachial plexus injury, bruises on his right cheek and both ears, and multiple rib fractures. After transfer to a children's hospital, surgical exploration revealed avulsion of the C6 root nerve from the spinal cord and damage to C5, C7, and C8 nerve roots. Several surgical repairs and physical therapy have led to some improvement, but the child is permanently injured. His right arm is shorter than the left, his right hand is smaller, and he has less strength and range of motion in the right arm. He also has excessive tearing in the right eye and his right eyelid droops.

PARENTS' CLAIM The ObGyn failed to recognize the risk of delivering a macrosomic baby and did not consider cesarean delivery. The brachial plexus injury was due to downward traction applied during delivery.

PHYSICIAN'S DEFENSE There was no negligence. The brachial plexus injury was not caused by downward traction.

VERDICT A $4.1 million Indiana verdict was returned, but was reduced to the state cap of $1.25 million.

Failure to follow-up on mass: $1.97M verdict

AFTER STAGE II OVARIAN CANCER was found in 1999, a woman underwent surgery and chemotherapy, and was told she was cancer-free. She had regular visits between 2000 and 2008 with another surgical oncologist after her first surgeon moved. In 2004, the oncologist documented finding a round fullness during a pelvic exam. A CT scan confirmed a mass in the pelvic cul-de-sac.

In August 2008, the patient was treated for deep venous thrombosis in her leg. The attending physician saw the pelvic mass on imaging, and a biopsy indicated a recurrence of ovarian cancer. After chemotherapy, the patient underwent surgery, but the tumor was unresectable. In early 2011, testing revealed metastasis to the spine, sternum, pelvic bone, arm, and lung.

PATIENT'S CLAIM The surgeon did not properly investigate the mass resulting in a delayed diagnosis of cancer recurrence. The patient alleged that the surgical oncologist repeatedly stated that the mass had not changed and was most likely fluid; it was nothing to worry about. Radiology reports indicated a suspicion of cancer.

DEFENDANTS' DEFENSE The oncologist repeatedly told the patient that the mass should be biopsied, but the patient refused because she was dealing with other medical issues. The radiologist argued that reports to the oncologist included everything needed to diagnose the cancer.

VERDICT A Pennsylvania jury found the surgical oncologist fully at fault and returned a $1,971,455 verdict.

Incomplete tubal ligation

BEFORE DELIVERY OF HER THIRD CHILD, a 26-year-old woman requested sterilization using tubal ligation. After delivery, the ObGyn performed a bilateral tubal ligation. The pathologist's report indicated that the ligation was incomplete: the left fallopian tube had not been fully removed. The ObGyn failed to note the report's results in the patient's record, nor did he advise the patient. Two years later, the patient delivered a fourth child.

PATIENT'S CLAIM The patient alleged wrongful birth against both the ObGyn and pathologist. The ObGyn was negligent for not reacting to the pathologist's report of incomplete tubal ligation, and for not informing the patient. The pathologist should have verbally confirmed receipt of the report with the ObGyn.

PHYSICIANS' DEFENSE The ObGyn settled before trial. The pathologist claimed he had properly interpreted the specimen and reported the results.

VERDICT A Louisiana jury found the ObGyn fully at fault and assessed additional damages of $56,252 to the $100,000 settlement.

These cases were selected by the editors of OBG MANAGEMENT *from* Medical Malpractice Verdicts, Settlements & Experts, *with permission of the editor, Lewis Laska (www.verdictslaska.com). The information available to the editors about the cases presented here is sometimes incomplete. Moreover, the cases may or may not have merit. Nevertheless, these cases represent the types of clinical situations that typically result in litigation and are meant to illustrate nationwide variation in jury verdicts and awards.*

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Where did this foreign body come from?

A WOMAN SUFFERED FROM PELVIC PAIN caused by adhesions following two cesarean deliveries and a hysterectomy. In January 2003, her ObGyn performed laparotomy to reduce adhesions from prior surgeries and place Gore-Tex mesh to prevent future adhesions. In October 2010, the patient reported epigastric pain, and went to a different surgeon (her insurance changed). A CT scan identified a foreign body encapsulated in scar tissue in the patient's lower abdomen/pelvis. The surgeon removed the foreign body.

PATIENT'S CLAIM The ObGyn and hospital were negligent in conducting the 2003 procedure; the foreign object was a retained surgical sponge.

DEFENDANTS' DEFENSE The foreign body removed in 2010 was the Gore-Tex mesh placed in 2003. The mesh became encapsulated in scar tissue due to the patient's propensity to develop adhesions, and then moved within the patient's body. Surgical sponges have embedded radiopaque tracers; CT scans in 2003 and 2010 did not detect any radiopaque tracers.

VERDICT A California defense verdict was returned.

Massive bleed during sacrocolpopexy

AFTER A 72-YEAR-OLD WOMAN developed pelvic organ prolapse, her urologist performed an abdominal sacrocolpopexy. As the urologist attempted to gain access to the sacral prominence, a tear in the median sacral vein expanded to involve the inferior vena cava and left iliac vein. Massive bleeding occurred and multiple units of blood were transfused. A general surgeon successfully repaired the vascular injuries. The patient was hospitalized for 16 days, received home healthcare, and fully recovered.

PATIENT'S CLAIM The urologist was negligent in overaggressive manipulation of the median sacral vein, causing it to avulse.

PHYSICIAN'S DEFENSE Bleeds of this type are a known complication of the procedure.

VERDICT A Michigan defense verdict was returned.

Was it hypoxia or autism?

AFTER SEVERAL HOURS IN LABOR, a fetal heart-rate monitor indicated decreasing fetal heart rate that led to terminal bradycardia. The ObGyn was called and performed an emergency cesarean delivery. The child was diagnosed with brain damage at 2 years of age.

PARENTS' CLAIM A cesarean delivery should have been planned because of the fetal weight (8 lb 11 oz). A hypoxic event occurred during labor. Ultrasonography would have shown that the fetus was inverted and that the baby's face was covered by one of its hands. Delivery was not properly managed, and fetal distress was not reported to the ObGyn in a timely manner.

DEFENDANTS' DEFENSE The infant's weight was not sufficient to warrant a cesarean delivery. The infant did not suffer hypoxia. The child's abnormalities only emerged in the second year of life. An MRI at that time did not indicate brain damage. The child's development with subsequent regression suggests autism.

VERDICT A New York defense verdict was returned.

Should mammography have been diagnostic?

A 46-YEAR-OLD WOMAN with a family history of breast cancer had regular annual screenings. In December 2006, the patient reported pain, hardness, and burning in her left breast to her gynecologist. A radiologist interpreted the mammography as normal. In May 2007, the patient found a lump in her left breast. Testing indicated she had stage IV breast cancer. She died 2 months after the trial concluded.

PATIENT'S CLAIM The 2006 mammogram was performed as a screening mammography, but should have been diagnostic, considering her family history and reported symptoms. The radiologist improperly interpreted the films.

DEFENDANTS' DEFENSE The hospital staff testified that the patient did not report pain, hardness, and burning in her left breast when she presented for the 2006 mammography. The radiologist claimed his screening and interpretation were appropriate.

VERDICT The Louisiana court granted the patient's motion for judgment, and awarded $558,000 in medical costs and $1.3 million in noneconomic damages, totalling $1.808 million. This was reduced to the $500,000 statutory cap.

PHOTO: SHUTTERSTOCK