



Bowel perforation causes woman's death: \$1.5M verdict

A 46-YEAR-OLD WOMAN UNDERWENT laparoscopic supracervical hysterectomy to remove her uterus but preserve her cervix. Postsurgically, she had difficulty breathing deeply and reported abdominal pain. The nurses and on-call physician reassured her that she was experiencing "gas pains" due to

insufflation. After same-day discharge, she stayed in a motel room to avoid a second-floor bedroom at home.

She called the gynecologist's office the following day to report continued pain and severe hot flashes and sweats. The gynecologist instructed his nurse to advise the patient to stop taking her birth control pill (ethinyl estradiol/norethindrone, Microgestin) and "to ride out" the hot flashes.

The woman was found dead in her motel room the next morning. An autopsy revealed a perforated small intestine with leakage into the abdominal cavity causing sepsis, multi-organ failure, and death.

▶ESTATE'S CLAIM The gynecologist reviewed the medical records and found an error in the operative report, but he made no addendum or late entry to correct the operative report. His defense counsel instructed him to draft a letter clarifying the surgery; this clarification was given to defense experts. The description of the procedure in the clarification was different from what was described in the medical records. For example, the clarification reported making 4 incisions for 4 trocars; the operative report indicated using 3 trocars. The pathologist and 2 nurses who treated the patient after surgery confirmed that there were 3 trocar incisions. The pathologist found no tissue necrosis at or around the perforation site, indicating that the perforation likely occurred during surgery.

▶PHYSICIAN'S DEFENSE Bowel perforation is a known complication of the procedure. The perforation was not present at the time of surgery because leakage of bowel content would have been obvious.

▶VERDICT A \$1.5 million Virginia settlement was reached.

perforated the uterus and colon. An earlier response to symptoms could have prevented repair surgery. Damage to the uterus may now preclude her from having a successful pregnancy.

▶DEFENDANTS' DEFENSE The ObGyn argued that the aborted pregnancy was ectopic; spontaneous rupture caused the perforations.

▶VERDICT A \$340,000 New York settlement was reached with the ObGyn. By the time of trial, the clinic had closed.

Wrong-site biopsy; records altered

A 40-YEAR-OLD WOMAN underwent excisional breast biopsy. The wrong lump was removed and the woman had to have another procedure.

▶PATIENT'S CLAIM The hospital's nursing staff failed to properly mark the operative site. The breast surgeon did not confirm that the markings were correct. The surgeon altered the written operative report after the surgery to conceal negligence.

▶DEFENDANTS' DEFENSE The nurses properly marked the biopsy site, but the surgeon chose another route. The surgeon edited the original report to reflect events that occurred during surgery that had not been included in the original dictation. The added material gave justification for performing the procedure at a different site than originally intended.

▶VERDICT A \$15,500 Connecticut verdict was returned.

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.

Retained products of conception after D&C

WHEN SONOGRAPHY INDICATED that a 30-year-old woman was pregnant, she decided to abort the pregnancy and was given mifepristone.

Another sonogram 5 weeks later showed retained products of conception within the uterus. An ObGyn performed dilation and curettage (D&C) at an outpatient clinic.

Because he believed the cannula did not remove everything, he used a curette to scrape the uterus. After the patient was dizzy, hypotensive, and in pain for 4 hours, an ambulance transported her to a hospital. Perforations of the uterus and sigmoid colon were discovered and repaired during emergency surgery. The patient has a large scar on her abdomen.

▶PATIENT'S CLAIM The ObGyn did not perform the D&C properly and



Second twin has CP and brain damage: \$10M settlement

A WOMAN GAVE BIRTH TO TWINS at an Army hospital. The first twin was delivered without complications. The second twin developed a prolapsed cord during delivery of the first twin. A resident and the attending physician allowed the mother to continue with vaginal delivery. The heart-rate monitor

showed fetal distress, but the medical staff did not respond. After an hour, another physician was consulted, and he ordered immediate delivery. The attending physician decided to continue with vaginal delivery using forceps, but it took 15 minutes to locate forceps in the hospital. The infant suffered severe brain damage and cerebral palsy. She will require 24-hour nursing care for life, including treatment of a tracheostomy.

► **PARENTS' CLAIM** The physicians were negligent for not reacting to non-reassuring monitor strips and for allowing the vaginal delivery to continue. An emergency cesarean delivery should have been performed.

► **DEFENDANTS' DEFENSE** The case was settled before trial.

► **VERDICT** A \$10 million North Carolina settlement was reached for past medical bills and future care.

Faulty biopsies: breast cancer diagnosis missed

IN SEPTEMBER 2006, a 40-year-old woman underwent breast sonography. A radiologist, Dr. A, reported finding a mass and a smaller nodule in the right breast, and recommended a biopsy of each area. Two weeks later, a second radiologist, Dr. B, biopsied the larger of the two areas and diagnosed a hyalinized fibroadenoma. He did not biopsy the smaller growth, but reported it as a benign nodule. He recommended more frequent screenings. The patient was referred to a surgeon, who determined that she should be seen in 6 months.

In June 2007, the patient underwent right-breast sonography that revealed cysts and three nodules. The surgeon recommended a biopsy, but

the biopsy was performed on only two of three nodules. A third radiologist, Dr. C, determined that the nodules were all benign.

In November 2007, when the patient reported a painful lump in her right breast, her gynecologist ordered mammography, which revealed lesions. A biopsy revealed that one lesion was stage III invasive ductal carcinoma. The patient underwent extensive treatment, including a mastectomy, lymphadenectomy, chemotherapy, and radiation therapy, and prophylactic surgical reduction of the left breast.

► **PATIENT'S CLAIM** The cancer should have been diagnosed in September 2006. Prompt treatment would have decreased the progression of the disease. The September 2006 biopsy should have included both lumps, as recommended by Dr. A.

► **DEFENDANTS' DEFENSE** There was

no indication of cancer in September 2006. Reasonable follow-up care was given.

► **VERDICT** A New York defense verdict was returned.

Tumor not found during surgery; BSO performed

A 41-YEAR-OLD WOMAN UNDERWENT surgery to remove a pelvic tumor in November 2004. The gynecologist was unable to locate the tumor during surgery. He performed bilateral salpingo-oophorectomy (BSO) because of a visual diagnosis of endometriosis. In August 2005, the patient underwent surgical removal of the tumor by another surgeon. She was hospitalized for several weeks and suffered a large scar that required additional surgery.

► **PATIENT'S CLAIM** BSO was unnecessary, and caused early menopause, with vaginal atrophy and dryness, depression, fatigue, insomnia, loss of hair, and other symptoms.

The patient claimed lack of informed consent. From Ecuador, the patient's command of English was not sufficient for her to completely understand the consent form; an interpreter should have been provided.

► **DEFENDANTS' DEFENSE** BSO did not cause a significant acceleration of the onset of menopause. It was necessary to treat the endometriosis.

The patient signed a consent form that included BSO. The patient did not indicate that she did not understand the language on the form; had she asked, an interpreter would have been provided.

► **VERDICT** A \$750,000 New York settlement was reached with the gynecologist and medical center. ☺