



Head entrapment in premature baby

DURING BREECH VAGINAL DELIVERY of a premature infant, the child's head became entrapped. A maternal-fetal medicine specialist was called in. Delivery took 22 minutes. The child has cerebral palsy, with severe developmental delays, and requires a gastrostomy tube and tracheotomy.

▶ **PATIENT'S CLAIM** Lack of oxygen for 22 minutes before delivery caused brain damage. Inappropriate maneuvers used by the physicians and nurses to relieve head entrapment also contributed to the injury. An emergency cesarean delivery should have been performed when vaginal delivery was delayed.

▶ **DEFENDANTS' DEFENSE** The appropriate maneuvers were performed to release the entrapped head. The child's problems were due to her prematurity and fetal inflammatory response syndrome.

▶ **VERDICT** In Illinois, a summary judgment was granted for the maternal-fetal medicine physician. A directed verdict was given for one nurse. A jury returned a defense verdict for the hospital, a labor and delivery nurse, and one of the ObGyns. The jury deadlocked on the claims against a second ObGyn.

Stenotic os thwarts two biopsies

AT HER ANNUAL VISIT in June 2006, a 48-year-old woman reported heavy bleeding. Her ObGyn asked the woman to return for re-examination. Twelve days later, ultrasonography revealed an enlarged uterus. The ObGyn attempted to perform a biopsy, but failed because of a stenotic os.

In September 2006, after a course of hormones, the ObGyn again tried to obtain a biopsy, but once more encountered the stenotic os. A hysterectomy was discussed, but the patient declined. In October 2007, the woman agreed to a hysterectomy. During surgery, the ObGyn identified cancer, and a gynecologic oncologist was called in. The woman was found to have stage-IV endometrial cancer. She underwent chemotherapy; at trial, the cancer was in remission.

▶ **PATIENT'S CLAIM** Cancer should have been diagnosed earlier.

▶ **PHYSICIAN'S DEFENSE** There was no negligence; the patient had rejected hysterectomy in September 2006. In addition, the cancer initially was not endometrial, but had started in an area of adenomyosis deep in the uterine wall.

▶ **VERDICT** A Kentucky defense verdict was returned.

Brachial plexus injury after shoulder dystocia

AN OBESE WOMAN had gestational diabetes; the fetus was estimated to be macrosomic. When shoulder dystocia was encountered at delivery, the ObGyn delivered the child using several maneuvers. The child was born with a brachial plexus injury.

▶ **PATIENT'S CLAIM** The physician

was negligent in not scheduling a cesarean delivery because the fetus was large. When dystocia occurred, the ObGyn continued to apply traction to the infant's head and neck, causing injury.

▶ **PHYSICIAN'S DEFENSE** The proper maneuvers were undertaken to deliver the child as quickly and safely as possible.

▶ **VERDICT** A \$72,500 Texas settlement was reached.

Was informed consent neglected?

A 35-YEAR-OLD WOMAN underwent diagnostic laparoscopy in March 2005 because of severe pelvic pain. During surgery, the ObGyn observed adhesions and scarring that obstructed visualization of the pelvic area. He converted to an open procedure and discovered advanced-stage endometriosis. Because of his concern that endometriosis might perforate the patient's colon, he performed supra-cervical hysterectomy.

▶ **PATIENT'S CLAIM** The ObGyn was negligent in converting to an open procedure and performing the hysterectomy without obtaining informed consent. She suffered post-traumatic stress disorder because of the surgery.

▶ **PHYSICIAN'S DEFENSE** The only option for treating the conditions he found was a hysterectomy. The patient had a history of anxiety prior to surgery.

▶ **VERDICT** A Tennessee defense 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.

Nipples “too high” after breast reduction surgery

A 25-YEAR-OLD WOMAN underwent breast reduction surgery.

▶ **PATIENT’S CLAIM** The plastic surgeon placed her nipples too high on her chest, making it impossible to find a bra that covered them, and making it difficult to find clothing to wear.

▶ **PHYSICIAN’S DEFENSE** Unforeseeable postoperative changes caused the woman’s breasts to drop, giving the appearance of the nipples being too high. The nipples were properly located during surgery.

▶ **VERDICT** A \$170,000 Georgia verdict was returned.

Placental abruption; stillbirth follows

A 24-YEAR-OLD WOMAN AWOKE one day during the 39th week of pregnancy with abrupt onset of vaginal bleeding. She arrived at the emergency department (ED) at 12:30 AM, and was transferred to labor and delivery at 1:12 AM. A sonogram at 1:24 AM revealed a fetal heart rate of 2 beats in 40 seconds, and a fetal scalp electrode did not register a heartbeat.

The mother was immediately prepped for emergency cesarean delivery, but a second sonogram performed in the OR showed no fetal heartbeat. Cesarean delivery was cancelled and labor was induced. The stillborn fetus was delivered vaginally several hours later, when a >60% placental abruption was found.

▶ **PATIENT’S CLAIM** She was not treated in a timely manner in the ED or on labor and delivery. An emergency

cesarean delivery should have been performed earlier.

▶ **DEFENDANTS’ DEFENSE** All treatment had been timely. Placental abruption was the cause of fetal demise; the child was not viable shortly after the mother’s arrival. The time allowed for transfer from the ED to labor and delivery, evaluation, and emergency cesarean preparation was appropriate. The child could not possibly have been born alive.

▶ **VERDICT** An Illinois defense verdict was returned.

Child’s enlarged heart unnoticed; lethal result

A WOMAN UNDERWENT four prenatal sonograms because she was found to have a single umbilical artery. Delivery was uneventful.

At 26 days, the infant became ill and was vomiting. The pediatrician sent the parents and baby to the emergency department, where Dr. A undertook his care. A radiologist read a three-view plain radiograph remotely and reported nothing abnormal. The infant was discharged.

When the parents returned the child to the ED the next morning, he was in cardiac failure related to an enlarged heart. He died before he could be transported to another hospital.

▶ **PATIENT’S CLAIM** The ObGyn failed to diagnose the child’s defective heart in utero. Dr. A relied on the radiologist’s report; he should have personally viewed the radiograph, as it clearly showed the defective and enlarged heart. The defect could have been surgically repaired. The hospital nurses and radiologist were also negligent.

▶ **DEFENDANTS’ DEFENSE** The hospital and radiologist settled for undisclosed amounts, and the trial proceeded against the ObGyn and Dr. A.

The ObGyn maintained that none of the prenatal sonograms was troubling; she had complied with the standard of care. Dr. A claimed that it was reasonable to rely on the radiologist’s report. Both physicians claimed they could not have done anything to avoid the child’s death; the hospital, radiologist, and pediatrician were at fault.

▶ **VERDICT** A Kentucky defense verdict was returned.

Death from occult uterine Ca

A WOMAN SAW HER GYNECOLOGIST in January 1999 with postmenopausal bleeding and severe pelvic pain, but the physician could not determine a source of the problems.

Several months later, another gynecologist found that she had uterine sarcoma. She died of metastatic leiomyosarcoma at age 52 in July 2000.

▶ **ESTATE’S CLAIM** The first gynecologist was negligent in failing to diagnose and treat the cancer, failing to consult or refer her to a specialist, and in prescribing hormones, which are contraindicated and caused the cancer to grow more rapidly.

▶ **PHYSICIAN’S DEFENSE** The cancer had metastasized before the woman’s first visit, but was too small to be detected at that time. The decedent was already taking hormones when he saw her in January 1999; he only changed the type and brand. Hormones would not cause this type of cancer to grow more rapidly.

▶ **VERDICT** A Texas defense verdict was returned. ☹