



Stroke during delivery: \$35.4M verdict

DURING DELIVERY, a 25-year-old woman had a hemorrhagic stroke that left her unable to care for herself or her child.

▶PATIENT'S CLAIM The patient's neurologist failed to advise the ObGyn that the patient had a history of brain aneurysm and a venous varix, which increased the risk for stroke during labor and delivery. The patient had shared her history with the ObGyn, and she requested that her neurologist contact the ObGyn.

▶NEUROLOGIST'S DEFENSE There was no negligence. The entire medical file had been delivered to the ObGyn. Any negligence was on the part of the ObGyn for failure to educate herself as to the patient's condition.

▶VERDICT A \$35.4 million Massachusetts verdict was returned against the neurologist, including \$12.9 million for past and future pain and suffering, \$4 million for past medical care, \$11 million for future medical care, \$4.5 million for the husband's loss of consortium, \$1.5 million for lost wages, and \$1.5 million for the child's loss of consortium.

IUGR detected but not immediately treated: \$15.5M settlement

DURING A PRENATAL VISIT at 38 weeks' gestation, a mother's ObGyn saw signs of intrauterine growth restriction (IUGR) but did not order ultrasonography to confirm the diagnosis or induce labor. When born 15 days later, the baby had a low birth weight and low Apgar scores. The child has permanent brain injury due to hypoxia.

▶PARENTS' CLAIM The ObGyn should have confirmed the presence of IUGR and appropriately managed the mother's prenatal care. The child's injuries could have been prevented if an earlier delivery had occurred.

▶PHYSICIAN'S DEFENSE The case was settled during the trial.

▶VERDICT A \$15.5 million Illinois settlement was reached.

Ureter injured during total abdominal hysterectomy

A 40-YEAR-OLD WOMAN with uterine fibroids, excessive bleeding, and pelvic pain underwent total abdominal hysterectomy performed by her ObGyn.

Postoperatively, the patient reported abdominal pain, but she was discharged from the hospital. Two days later, she returned to the emergency department reporting continued and increasing abdominal pain and urine leakage. The ObGyn referred her to a urologist who diagnosed stricture of the left ureter with a ureterovaginal fistula. A nephrostomy procedure was performed. Three months later, left ureter reimplantation surgery was completed.

▶PATIENT'S CLAIM The ObGyn was negligent in injuring the ureter during hysterectomy, in not identifying

the injury during surgery, and in not diagnosing and treating the injury in a timely manner, despite the patient's reports of increasing pain.

▶PHYSICIAN'S DEFENSE The case was settled during the trial.

▶VERDICT A \$350,000 Virginia settlement was reached.

Breech presentation but cesarean not performed

WHEN HER WATER BROKE, a mother was admitted to the hospital. The ObGyn ordered induction of labor but deferred vaginal examination to avoid infection. After labor was induced, a nurse noticed the presence of meconium. She performed a vaginal examination and found that the baby was in breech position; she did not immediately contact the ObGyn. After several hours of labor, the baby was born limp and not breathing with a heart rate of 50 bpm. The baby was resuscitated but sustained severe brain damage.

▶PARENTS' CLAIM The mother should have been examined before induction of labor. When it was determined that the baby was in breech position, a cesarean delivery should have been ordered. Communication between the nurse and ObGyn was poor.

▶DEFENDANTS' DEFENSE There was no negligence; labor was managed according to the standard of care.

▶VERDICT A New Jersey 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.

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Failure to find breast cancer; later diagnosed at Stage 3

A 34-YEAR-OLD WOMAN with a history of breast cancer was referred to a breast surgeon after her primary care physician detected a lump in her left breast. The breast surgeon found the lump and ordered mammography and ultrasonography. The radiologist who read both tests found no evidence of malignancy.

After 6 months, the patient noticed a distinct change in the lump and had another mammography and ultrasound. A second radiologist also found no sign of malignancy.

One year later, the patient was sent for bilateral breast magnetic resonance imaging. Results were interpreted as Stage 3 cancer at the same spot in her left breast. She underwent a double mastectomy, reconstructive surgery, radiation, chemotherapy, and hormone therapy.

► **PATIENT'S CLAIM** The delay caused the cancer to develop to Stage 3 instead of being detected earlier when less drastic measures could have been taken.

► **DEFENDANTS' DEFENSE** A settlement was reached with the radiologists.

► **VERDICT** A \$450,000 Massachusetts settlement was reached.

fetal heart rate increased and the ObGyn gave orders for the mother to stop pushing. He came to the hospital and performed emergency cesarean delivery. The infant was stillborn; attempts at resuscitation were unsuccessful.

► **PARENTS' CLAIM** The ObGyn should have been at the mother's bedside to more closely monitor the fetal heart rate. If he had ordered the cesarean delivery earlier, the baby would have survived.

► **PHYSICIAN'S DEFENSE** There was no negligence; proper review of monitor tracings was undertaken. The nurses frequently communicated with the ObGyn and a cesarean delivery was appropriately initiated.

► **VERDICT** A \$1.5 million Virginia verdict was returned.

Fetal heart rate not properly monitored

A 14-year-old mother was given misoprostol to induce labor. The infant has spastic quadriplegia and cannot stand, walk, or eat without assistance.

► **PARENTS' CLAIM** Misoprostol caused increasingly frequent contractions resulting in reduced blood flow to the baby. Although the fetal heart rate dropped to critically low levels, no counteracting drugs were administered. The attending physician was not present in the delivery room at several key junctures of labor and delivery.

► **HOSPITAL'S DEFENSE** The case was settled before the trial began.

► **VERDICT** A \$3 million North Carolina settlement was reached.

Emergency cesarean performed too late: infant stillborn

A MOTHER AGREED to attempt vaginal birth after cesarean (VBAC) under the care of her ObGyn. When she arrived at the hospital, electronic fetal heart-rate monitoring was started.

As labor progressed, signs of fetal distress became apparent on monitor tracings. An hour after fetal distress was first noted, the ObGyn reviewed the monitor tracings from offsite and advised the patient to stop pushing.

About an hour later, nurses notified the ObGyn that monitor tracings were irregular; the ObGyn gave orders for the mother to start pushing again.

After an hour of pushing, the

Ureter injury during vaginal hysterectomy missed for 8 days

A WOMAN UNDERWENT total vaginal hysterectomy performed by her gynecologist. During the procedure, the left ureter was injured. The injury was not diagnosed for 8 days and, during that time, the patient was in intense pain. Eventually the injury was diagnosed and reconstructive surgery was performed by a urologist.

► **PATIENT'S CLAIM** The gynecologist was negligent in injuring the ureter during hysterectomy, in not identifying the injury during surgery, and in not diagnosing the injury in a timely manner, despite the patient's reports of intense pain.

► **PHYSICIAN'S DEFENSE** The case was settled during the trial.

► **VERDICT** A \$350,000 Virginia settlement was reached.

Endometrial cancer after unopposed estrogen: \$7.5M

A 42-YEAR-OLD WOMAN took unopposed estrogen as treatment for reported perimenopausal symptoms from October 2010 through October 2012, although she still had her uterus.

In December 2013, the patient was diagnosed with Stage 3 endometrial cancer. She underwent a radical hysterectomy followed by several rounds of chemotherapy. Despite treatment, the cancer metastasized, leaving the patient with a decreased life expectancy.

►**PATIENT'S CLAIM** Use of unopposed estrogens by a woman who still has her uterus significantly increases her risk of developing endometrial cancer. The gynecologist was negligent for prescribing the drug.

►**PHYSICIAN'S DEFENSE** The case was settled during the trial.

►**VERDICT** A \$7.5 million Illinois settlement was reached

Preeclampsia treatment delayed because BP machine failed: \$5M

AT 31 4/7 WEEKS' GESTATION, a woman went to the hospital. She reported burning pain in her chest, headache, and vomiting.

Two nurses cared for the mother: one who was completing her shift (Nurse A) and another who was beginning her shift (Nurse B). Nurse A stated that the blood pressure (BP) machine was not working correctly when she attempted to assess the patient at admission. When Nurse B

took the patient's BP, it indicated preeclampsia. Shortly thereafter, fetal heart-rate monitoring showed a concerning pattern. Nurse B notified the ObGyn 75 minutes after the mother's arrival. The ObGyn ordered intervention to treat the baby's concerning heart rate and, when those efforts failed, an emergency cesarean delivery was performed. The baby was found to have brain damage caused by hypoxia.

►**PARENTS' CLAIM** Because the BP machine was not working properly when the mother arrived at the hospital, intervention for preeclampsia was delayed. Preeclampsia caused the baby's injuries. An earlier cesarean delivery should have been performed.

►**DEFENDANTS' DEFENSE** The patient was adequately treated. The injury likely occurred before the mother arrived at the hospital. The case was settled during the trial.

►**VERDICT** A \$5 million Massachusetts settlement was reached with the hospital and ObGyn.

Standard prenatal scan missed congenital syndrome: \$3.75M

A WOMAN RECEIVING PRENATAL CARE at a medical center requested an ultrasonographic anatomical fetal scan. A limited ultrasound (US) was performed, and no abnormalities were detected.

Upon birth, the child was found to have Dandy Walker syndrome, a malformation of the brain affecting mobility. The child requires full-time nursing care.

►**PARENTS' CLAIM** If a complete prenatal anatomical survey had

been performed when requested, the abnormality would have been detected. The mother would have terminated the pregnancy.

►**DEFENDANT'S DEFENSE** It is the medical center's policy to perform complete anatomical surveys only on women with high-risk pregnancies, which this was not. The woman switched health care providers during her pregnancy. A subsequent US performed by the new health care provider did not show a fetal abnormality. The case was settled during the trial.

►**VERDICT** A \$3.75 million New Jersey settlement was reached with the medical center.

Should mother have been discharged? \$700,000 settlement

DUE TO ELEVATED FETAL HEART RATE, a woman was admitted to the hospital for fetal heart-rate monitoring and then discharged a few hours later. After 2 days, the mother was readmitted for induction of labor, but she was discharged the following day. The next day, she was readmitted when she noticed lack of fetal movement. The infant was stillborn.

►**PARENTS' CLAIM** The mother and fetus were not properly monitored; she should not have been sent home after induction of labor. The hospital was negligent for not properly monitoring labor, for not assigning an ObGyn to care for the mother, and for not performing cesarean delivery.

►**HOSPITAL'S DEFENSE** The case was settled during the trial.

►**VERDICT** A \$700,000 Illinois settlement was reached with the hospital. ☺