



## Delayed delivery blamed for brain injury: \$9.6M

**A WOMAN RECEIVED PRENATAL CARE** from a federally funded clinic. At term, she was admitted to the hospital in labor and quickly dilated from 4 cm at 11:00 PM to 9 cm by 2:00 AM. The fetal heart-rate (FHR) tracing on admission was Category I but became Category II with decelerations and moderate variability at 1:30 AM. Although there was no further increase in cervical dilation, the on-call ObGyn observed at 2:15 AM that labor was progressing. The Category II FHR tracings showed deeper and progressively repetitive decelerations. At 3:45 AM, the ObGyn instructed the mother to push even though she was not fully dilated.

At 5:00 AM, the ObGyn called for emergency cesarean delivery, requesting assistance from a surgeon and surgical scrub technician. The baby was delivered at 5:28 AM with a nuchal cord. She was limp, blue, and not breathing, with Apgar scores of 0, 2, and 3, at 1, 5, and 10 minutes, respectively. After full resuscitation, the baby was transferred to another hospital where she was treated for hypoxic-ischemic encephalopathy with therapeutic hypothermia; a feeding tube was placed.

At trial, the 3.5-year-old child is totally blind, has cerebral palsy, a seizure disorder, speech and language impairments, and continues to require frequent suctioning. She will require 24-hour licensed nursing care for life.

▶ **PARENTS' CLAIM:** Standard of care required delivery before 4:00 AM due to fetal distress. The ObGyn was negligent in delaying cesarean delivery.

▶ **DEFENDANTS' DEFENSE:** The ObGyn observed that labor was progressing, indicating that vaginal delivery was appropriate. A cesarean delivery was not required earlier because FHR variability persisted, showing that the fetus was not acidotic. Delivery occurred less than 30 minutes after cesarean delivery was ordered, consistent with guidelines. The infant's injury was caused by an unpredictable cord accident and had nothing to do with an alleged delivery delay.

▶ **VERDICT:** The case was filed as a Federal Tort Claims Act case because the ObGyn was employed by a federal clinic. A California judge awarded \$9,609,305 after concluding that the cesarean delivery should have occurred earlier. The hospital settled for a confidential amount.

the patient was placed on a mechanical ventilator. She died 5 days later after her family elected to remove life support.

▶ **ESTATE'S CLAIM:** The ObGyn's post-operative care of the patient was negligent. After surgery, he was absent from the OR and did not follow up with the patient after he left the hospital. The ICU nurses' notes indicated that the patient was still actively bleeding when she entered the ICU. Despite repeated calls to the critical care specialist, the patient was left untreated by any physician until Code Blue was called.

▶ **PHYSICIANS' DEFENSE:** After the hospital reached a pretrial confidential settlement, the suit continued against the ObGyn and critical care specialist.

The ObGyn reported that he remained in the OR and left only after placing an intrauterine balloon and administering medications that successfully controlled the PPH. He disputed the accuracy of the ICU nurses' notes that related that the patient's vital signs indicating active bleeding "at all times."

The critical care specialist contended that he had recommended that the patient be kept in the OR instead of transferring her to ICU. He denied hearing from the ICU staff after 12:35 AM.

▶ **VERDICT:** A \$9,284,464 California verdict was returned against the ObGyn. The jury found the critical care specialist not guilty. ☹

## Mother dies of PPH: \$9.2 million

**A WOMAN GAVE BIRTH** by cesarean delivery. Shortly after surgery ended at 10:55 PM, the mother started hemorrhaging. Uterotonics and blood

products were ordered. The patient was hypotensive, tachycardic, hypovolemic, and possibly still bleeding. She was transferred from the operating room (OR) to the intensive care unit (ICU) at 12:35 AM. Her ObGyn left the hospital at 12:52 AM. At 3:13 AM, a Code Blue was called and

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