

Erroneous breast cancer diagnosis after needle biopsy

Greene County (NY) Supreme Court

A 51-year-old woman underwent a needle biopsy in 1 breast.

A physician reviewed the slide and diagnosed her with poorly differentiated carcinoma and recommended a modified mastectomy.

During surgery, the attending surgeon made an incision of approximately 2 inches and

took a frozen section of the tissue. Pathology determined that the mass was benign. The surgeon then removed the mass but did not perform a mastectomy. In suing, the woman contended that the biopsy was read improperly, thus subjecting her to unnecessary surgery under general anesthesia and a 2-inch scar.

The physician maintained that the mass had certain cellular characteristics consistent with cancer that necessitated its removal. A scar, therefore, would have resulted no matter what the needle biopsy indicated.

- The jury returned a defense verdict.

Missed placental abruption results in infant's quadriplegia

Kings County (NY) Supreme Court

Six days before her baby was due, a pregnant woman presented to a hospital complaining of abdominal pain.

Upon admission, fetal heart monitor tracings showed some decelerations. An hour and 15 minutes later, the tracing was nonreassuring. The obstetrical resident then ordered an emergency cesarean, but the attending obstetrician overruled the resident's decision.

Approximately 1 hour later, the tracing became nonreassuring again. The obstetrician ordered an emergency cesarean, but the infant was not delivered until 46 minutes later. At delivery, a placental abruption of 20% was discovered. The infant, who was 5 years old at the time of the trial, is a quadriplegic.

In suing, the mother argued that the 46-minute delay in delivery was the physician's fault. The obstetrician agreed that the delay was inexcusable, claiming that he did not recall why it occurred. The defense speculated, however, that the delay was due to a shortage of available anesthesia personnel.

The patient settled the case with the hospital for \$6 million shortly before trial.

In the trial against the obstetrician, the woman argued that the doctor was negligent in delaying the cesarean. Further, the physician mistook her presenting abdominal pains for labor when, in fact, they were due to her placental abruption. She maintained that this misdiagnosis ultimately resulted in the child's injuries.

- The jury awarded the plaintiff \$90.9 million.

Did insufficient testing following auto accident result in stillbirth?

Charleston County (SC) Circuit Court

A gravida was involved in a minor auto accident at 32 weeks' gestation. She was admitted to a hospital's labor and delivery unit 30 hours after the accident. The fetal monitor showed normal variability and a fetal heart strip was reactive. The patient was discharged after an overnight stay. Five days later, the woman prematurely delivered a stillborn.

In suing, the woman argued that additional testing should have been performed

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during her hospital stay. The physician maintained that the infant died just prior to delivery because the umbilical cord was wrapped around its neck.

- The jury returned a verdict for the defense.

Shoulder dystocia leads to nerve graft procedure

Nassau County (NY) Supreme Court

A woman presented to a hospital for delivery. During delivery, shoulder dystocia was encountered. The infant was born with nerve damage to the brachial plexus.

The child underwent a nerve graft procedure, in which the sural nerve from the back of her leg was grafted into the damaged brachial plexus. The infant recovered 90% to 95% use of her left arm.

In suing, the patient argued that the doctor applied excessive pressure to the infant's head during delivery, resulting in the nerve damage. The physician contended that the delivery was difficult and that all appropriate maneuvers were performed.

- The case settled for \$750,000.

Did delayed cesarean lead to infant's cerebral palsy?

Wayne County (Mich) Circuit Court

Upon presenting to a hospital for delivery, a woman's labor failed to progress. Oxytocin was therefore administered to stimulate contractions. During this time her labor was handled entirely by residents. This, despite the fact that multiple signs of fetal hypoxia—including nonreassuring fetal heart tracings and thick meconium—allegedly were present.

Approximately 30 minutes after the delivering physician arrived, an emergency cesarean was performed. Upon delivery, the infant demonstrated signs of severe neurological depression from hypoxic ischemic insult. Shortly after birth, the infant had low Apgar scores, severe metabolic acidosis, mul-

tiorgan failure, and seizures. The child now suffers from cerebral palsy as well as loss of cognitive functions.

In suing, the mother claimed that the cesarean should have been performed at least 6 hours before delivery actually took place.

The physician contended that the cesarean was performed in a timely manner and that there was no violation of proper care.

- The case settled in mediation for \$3.8 million.

Did failure to diagnose HELLP result in cerebral palsy?

Tompkins County (NY) Supreme Court

A 21-year-old woman presented to a hospital at 26 weeks' gestation for delivery. One year after birth, the premature infant was diagnosed with cerebral palsy. In suing, the mother claimed that there was a delay in diagnosing hemolysis, elevated liver enzymes, and low platelet count (HELLP) syndrome. She argued that had the diagnosis been made earlier, she could have received steroids to prolong the pregnancy.

The defendants contended that the diagnosis was made in a timely manner. In addition, they claimed that even if the diagnosis had been made earlier, the outcome would not have changed, as the fetus was too underdeveloped for steroids to have an effect.

- The jury returned a verdict for the defense.

Could hysterectomy following uterine atony have been avoided?

New York County (NY) Supreme Court

A woman presented to a hospital for delivery. Following a normal vaginal birth, the patient began to hemorrhage as a result of uterine atony.

The physician performed a dilatation and curettage procedure, which was ineffective. A hysterectomy was thus required.

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In suing, the patient claimed that the physician failed to properly monitor and record findings of fundal firmness and vaginal bleeding, and failed to record blood pressure and pulse every 10 to 15 minutes, as was hospital policy. She argued that the uterine atony was not treated in a timely manner, thus necessitating a hysterectomy.

The physician argued that the woman was appropriately treated, adding that she was given fundal massage following delivery, her bleeding was treated with carboprost tromethamine and methylergonovine maleate, and she was administered blood and platelets.

- The jury returned a verdict for the defense.

Did fetal chorioamnionitis exposure cause brain damage?

Bronx County (NY) Supreme Court

Doctors diagnosed chorioamnionitis in a 15-year-old girl who presented to a hospital in labor and with a fever at approximately 10:45 AM. By 1 PM the patient was 5-cm dilated, but labor failed to progress. At 3:30 PM, doctors decided to deliver the infant via cesarean. However, delivery did not occur until 67 minutes after the order.

The infant was born with Apgar scores of 9 at 1 minute and 9 at 5 minutes. Following antibiotic therapy for possible meningitis that may have resulted from exposure to the mother's infection, all cultures performed on the infant were normal.

The child, who was 15-years-old at the time of the trial, was enrolled in high school but required special education classes. In suing, he claimed that exposure to the mother's infection at the time of his birth caused his developmental delays. He contended that cesarean delivery should have been performed earlier to minimize exposure.

The physician argued that any developmental delays were minimal and unrelated to the events at birth, evidenced by the fact that the infant had Apgar scores of 9 at both

1 and 5 minutes.

- The case settled for \$1.75 million.

Metastatic breast cancer follows unreported mammogram results

Dade County (Fla) Circuit Court

A woman underwent a routine mammogram in October 1999. The report indicated possible nodular density in the upper outer quadrant of the right breast. In August 2000, the woman discovered a mass in this same location during self-examination. She was later diagnosed with breast cancer that had metastasized. She underwent chemotherapy, a right modified radical mastectomy, and radiation therapy.

In suing, the patient claimed she was never contacted with the results of her 1999 mammogram or about the need for further testing.

The physician argued that he tried to contact the patient several times.

- The jury awarded the plaintiff \$6.8 million.

Did excessive traction lead to paralysis?

Marion County (Ohio) Court of Common Pleas

An infant with shoulder dystocia was born with brachial plexus injury, resulting in partial paralysis of her right arm.

In suing, the infant—who was 15 years old at trial—argued that her injuries were a result of the physician's negligence in applying excessive downward traction.

The physician argued that the injury was caused in utero and during delivery due to uterine contractions, expulsive forces of labor, and normal traction.

- The jury awarded the plaintiff \$900,000. ■

The cases presented here were compiled by Lewis L. Laska, editor of Medical Malpractice Verdicts, Settlements & Experts. While there are instances when the available information is incomplete, these cases represent the types of clinical situations that typically result in litigation.