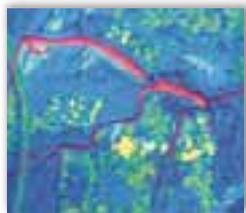


## Pulmonary embolism, death 1 day after cesarean

Bronx County (NY) Supreme Court

A 31-year-old obese, diabetic woman presented to a hospital for delivery of her fourth child. The doctor was unable to induce labor, so the baby was delivered via cesarean.

Following the procedure, the doctor gave the patient a 24-hour "out-of-bed" order. The patient allegedly refused to rise until the following day. When she did leave the bed to take a shower, she suffered a pulmonary embolism and later died.



Pulmonary embolism on angiography, colorized

In suing, a relative of the woman argued that the doctor knew cesarean section carried an increased risk of pulmonary complications,

particularly in an obese woman with diabetes. The relative claimed the doctor should have given the patient time to attempt natural delivery. In addition, she asserted that the woman should have been forced out of bed sooner, given antiembolic stockings, and administered small doses of heparin.

The doctor said a cesarean was performed because of the patient's erratic blood-sugar control, fetal macrosomia measurements, and nonreactive stress testing with late decelerations on fetal monitoring. The doctor also argued that the 24-hour "out-of-bed" order was properly timed and that antiembolic stockings and heparin would not have prevented a pulmonary embolism. The doctor further noted that the patient's physical examinations showed no signs of deep venous thrombosis, nor did her blood tests indicate that she was in a hypercoagulable state.

■ The jury awarded the plaintiff \$6.147 million. The case settled for \$2.5 million following the verdict due to a \$2.5 million/\$350,000 high/low agreement. The hospital settled for \$150,000.

## Did delayed delivery cause twin's brain damage?

Cook County (Ill) Circuit Court

Noting a decrease in fetal movement, a woman at 35.5 weeks' gestation with twins called her doctor. The physician ordered her to the hospital, where a fetal heart monitor was attached. The monitor allegedly showed signs of fetal distress.

A cesarean section was performed 6 hours later. One of the twins suffered a hypoxic ischemic brain injury; the other sustained no neurologic damage. The first twin is confined to a wheelchair due to cerebral palsy, spastic quadriplegia, and dystonia.

In suing, the mother claimed that the 6-hour delay in delivery resulted in her son's brain injury.

The doctor argued that the brain damage occurred prior to the mother's arrival at the hospital. The doctor also contended that the fetal monitoring did not warrant an earlier delivery.

■ The jury returned a defense verdict. The hospital settled with the plaintiff for a confidential amount.

## Cancerous vulvar lesion misdiagnosed as eczema

Ocean County (NJ) Superior Court

In February 1997, a 49-year-old woman presented to her gynecologist with a white lesion on her vulva. The doctor diagnosed the lesion as eczema but also recommended a

biopsy. However, the biopsy was not performed until January 1999.

The patient was subsequently diagnosed with vulvar cancer and required a radical hemivulvectomy. Another surgeon removed 17 lymph nodes to determine whether the cancer had spread.

The patient sued, claiming that the cancer cells might have been removed if a biopsy had been performed earlier.

- The case settled for \$525,000.

## **Ruptured diverticulum, death follow hysterectomy**

Cook County (Ill) Circuit Court

**A** 45-year-old woman underwent a hysterectomy. A week after her staples were removed, she experienced vomiting and a fever of 100°. The patient's husband called the doctor, who made a differential diagnosis of viral gastroenteritis and advised continued monitoring of her temperature.

The following day, the woman called the doctor with a temperature of 101° and continued vomiting. The doctor again advised her to drink plenty of fluids and to call back if symptoms persisted or worsened. Two days later, the woman was brought to the hospital in septic shock with a ruptured diverticulum and spreading peritonitis. She died later that day.

In suing, the woman's husband contended that the doctor should have examined her in person.

The doctor argued that a diagnosis of viral gastroenteritis was reasonable and said the development of diverticulitis following a hysterectomy was not foreseeable.

- The jury returned a defense verdict.

## **Was abscess missed on CT?**

Bowie County (Tex) District Court

**F**ive days after giving birth to a girl via cesarean section, a 24-year-old woman underwent computed tomography (CT) imag-

ing, with normal results. Four days later, another CT scan showed an abscess at the incision. Although the abscess was drained and treated with antibiotics, it did not clear up for 2 weeks. The patient was discharged after 25 days. She reportedly suffers from continued back pain.

In suing, she alleged that the doctor failed to take proper cultures and did not read the first CT scan correctly. The incorrect diagnosis delayed proper management, she argued.

- The jury returned a defense verdict.

## **Did use of vacuum, forceps lead to brain damage?**

Undisclosed County (Mass) Superior Court

**A**fter experiencing ruptured membranes with clear amniotic fluid at 33 weeks' gestation, a 25-year-old gravida was hospitalized. Two weeks of regular fetal monitoring showed no fetal compromise.

At 34 weeks' gestation, the woman began to experience contractions. Hospital staff noted her white blood cell count had elevated to 16,700 and her temperature was 99°. Amniotic fluid analysis showed a positive PG, indicating fetal lung maturity.

At 9:15 that evening, the mother was fully dilated. By 11:00 PM, the woman had been pushing for nearly 2 hours but the infant had not moved past the +2 station in occiput anterior position. The Ob/Gyn then made several unsuccessful attempts at vacuum extraction before ultimately using forceps to deliver the baby at 11:09 PM.

Upon delivery, the newborn had Apgar scores of 8/9. A few minutes later, however, he developed breathing problems and within 24 hours experienced seizures. A large bruise was noted on his head. Magnetic resonance imaging (MRI) taken 8 days later revealed he had suffered a subarachnoid hemorrhage. The child has severe permanent brain damage and suffers from extensive handicaps and cerebral palsy.

In suing, the plaintiff alleged that the Ob/Gyn failed to conduct proper examinations

and perform a timely cesarean. Further, he claimed the doctor did not properly communicate the risks of vacuum or forceps delivery. The plaintiff charged that the doctor's misuse of the vacuum and forceps led to his brain damage.

The doctor maintained that he did not deviate from the standard of care and that the child's injuries were the result of prematurity. Further, the physician argued that the MRI images were inconsistent with the type of trauma that would result from the use of a vacuum or forceps.

- The case settled for \$3.25 million.

## **Laparoscopy leads to laceration of aorta, vena cava**

Otsego County (NY) Supreme Court

A 34-year-old woman with a history of chronic pelvic pain underwent a hysteroscopy and diagnostic laparoscopy. During the laparoscopy, she suffered a laceration to her abdominal aorta and vena cava. The surgery was converted to an open procedure so that the lacerations could be repaired.

In suing, the patient claimed that the doctor negligently inserted the trocar and/or Veress needle, since the injury occurred 0.5 cm above the bifurcation of her aorta and vena cava. She also claimed 37 minutes elapsed between the discovery of her injuries and the repair.

The doctor argued that blood vessel injuries are a known risk of laparoscopic procedures. He also denied that a 37-minute lapse in time occurred in repairing her injury.

- The jury returned a defense verdict.

## **Delayed ectopic diagnosis results in tubal rupture**

Ingham County (Mich) Circuit Court

A 31-year-old woman presented to an obstetrician for prenatal care. An ultrasound was reported to demonstrate a gestational sac in the uterus but no fetal pole or

yolk sac. The doctor ruled out a nonviable fetus and diagnosed her with early pregnancy.

The following day, the patient called the doctor complaining of sudden pain in her left lower stomach. She was referred to a radiologist for an ultrasound, which revealed a small amount of intrauterine fluid with no visible yolk sac or fetal pole, and no free fluid in the pelvis. Later that evening, the woman presented to a hospital with continued pain and vaginal bleeding. She was diagnosed with a threatened abortion and discharged.

The next morning, the woman returned to the obstetrician for another ultrasound; this revealed free fluid in the pelvic cavity, suggesting a ruptured ectopic pregnancy. The patient was immediately admitted to the hospital. She was diagnosed with a ruptured fallopian tube, which was subsequently removed.

The woman sued, arguing that the ectopic pregnancy would have been discovered prior to the rupture had the doctor performed an examination. She also claimed the fallopian tube could have been repaired before the rupture.

The doctor argued that the standard of care did not necessitate an examination the day before the rupture, and maintained that tube removal would have been necessary even if the patient had been seen.

- The jury returned a defense verdict.

## **Was brain damage due to unnoticed cord compression?**

Westchester County (NY) Supreme Court

A woman presented to a hospital for delivery. During labor, hospital staff noted variable decelerations on the fetal heart monitor. The defendant physician administered oxytocin to accelerate labor, but ultimately opted for cesarean.

Following delivery, the infant boy was intermittently hospitalized and intubated. It was later revealed that he suffered brain damage, which led to extensive physical, occupa-

tional, and speech therapy. The child, 4 years old at the time of trial, cannot speak at an age-appropriate level; educators anticipate he will require special education classes.

The mother contended that the fetal monitoring decelerations stemmed from umbilical-cord compression, which was aggravated by the oxytocin. She claimed this led to hypoxia during delivery. She added that the doctor should have performed fetal scalp sampling and amnioinfusion, and should have conducted the cesarean earlier.

The physician maintained that it was not hypoxia, but an unexpected placental abruption that caused the infant's depressed postpartum condition. He noted that the fetal decelerations did not establish a nonreassuring pattern.

- The jury awarded the plaintiff \$14,703,347.

## **Woman develops sepsis, dies after hysterectomy**

Madison County (Ala) Circuit Court

**A** 66-year-old woman underwent vaginal hysterectomy. She experienced no post-operative complications and was stable 1 week later at a follow-up visit. When she returned about 1 month later, however, she was despondent and failed to respond to questions. An exploratory laparotomy performed the next day revealed an aggressive infection. The area was debrided. Two weeks later, the patient died of adult respiratory distress syndrome and multiorgan system failure.

In suing, the woman's estate alleged that the surgeon punctured her intestine during the hysterectomy, causing her to develop sepsis, which was detected too late.

The doctor denied that a puncture wound had occurred during surgery. The physician who performed the exploratory laparotomy also said there was no evidence of such a wound. The defense argued that the infection was a result of a rare and spontaneous bacterial infection, and claimed the

patient died as a result of cirrhosis due to a history of alcohol abuse.

- The jury returned a defense verdict.

## **Stress test normal, but infant is stillborn**

Boyd County (Ky) Circuit Court

**U**pon noting a decrease in fetal movement, a woman at 37 weeks' gestation contacted her obstetrician. She was sent to the hospital's emergency room, where she was administered a contraction stress test, which was normal. She was admitted to the hospital overnight as a precaution.

Two days after her release, she returned to the hospital, again reporting decreased fetal movement. The doctor performed an ultrasound and told the woman that the fetus had no heartbeat. A stillborn was delivered via cesarean section.

The mother sued, arguing that more tests should have been administered before she was released from the hospital. She maintained that subsequent testing—including a biophysical profile—would have detected an abnormality. Prompt delivery may have offered her son a chance for survival, she said.

The doctor contended that a stress test was well within the standard of care. In fact, he noted, keeping the patient an additional night in the hospital exceeded that standard. The doctor also claimed that a normal stress test did not call for additional testing. In addition, he pointed out that the mother did not properly record her kick count after she was discharged. He linked the infant's demise to an underlying circulatory problem that could not be detected via fetal monitoring.

- The jury returned a defense verdict. ■

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