

## Monitor delay blamed for cerebral palsy

### Dade County (Fla) Circuit Court

Labor induction was scheduled for a gravida with gestational diabetes due to concerns of macrosomia. Once induced, however, labor progressed slowly.

When fetal monitoring revealed no fetal heart rate, the nurse suspected a problem with the monitor. After adjusting the monitor, she discovered the antisurge box had been removed, and left the room to get another.

Once the monitor was again operating properly, a fetal heart rate was still not detected. An emergency cesarean was ordered, but the child was born with severe cerebral palsy.

The plaintiffs sued the physician and hospital, arguing that the nurse should have notified the doctor immediately upon discovering no fetal heart rate. The delay caused by her attempt to fix the monitor, they argued, led to the child's injury.

The defense claimed that the mother's uncontrolled gestational diabetes played a role in the child's injury, and argued that an intrauterine infection may also have contributed to the outcome.

- The parties settled for \$4 million.

## Is misoprostol wrong for induction?

### Charlottesville (Va) Circuit Court

A 32-year-old woman at 38 2/7's weeks' gestation presented to a hospital for a scheduled induction due to gallstone pain and previous difficult delivery.

Her obstetrician gave 50 mg of misoprostol vaginally, but the woman's cervix

failed to dilate. Three hours later, the physician requested that a second ObGyn administer another 50-mg dose. Though the woman had contractions and increasing pain, cervical dilation did not begin for another 1.5 hours, after which steady progression occurred. She received an epidural and vaginally delivered a healthy infant girl.

Postpartum, the woman experienced rapid bleeding and passed a clot. Following oxytocin administration, her blood pressure dropped, after which a cervical tear was discovered. On exploratory laparotomy, the tear was found to extend to the woman's uterus, requiring a hysterectomy. The procedure was successful and the woman made a full recovery.

In suing, the plaintiff claimed the tear stemmed from hyperstimulation due to excessive doses of misoprostol. She claimed the agent was not an appropriate choice since it is not approved for labor induction, and argued that the obstetricians failed to properly monitor her progress. She also argued that she did not provide informed consent.

The defense maintained that the tear was unrelated to the use of misoprostol, which they noted to be an appropriate agent that was properly administered.

- The jury returned a defense verdict.

## What caused leak: UTI or PPRM?

### Hamilton County (Ohio) Common Pleas Court

Upon the discovery in the middle of the night that she was leaking fluid, a woman at 20 weeks' gestation called her obstetrician's office and spoke with the covering physician. The doctor diagnosed a urinary tract infection (UTI) and told the patient to come into the office



Fetal monitor

the next day. Urine culture taken at that visit was normal.

The woman continued to leak fluid for the next 2 weeks. A visit with her regular obstetrician later that month passed without incident, but at a second visit the physician suspected ruptured membranes. The doctor admitted the woman to the hospital, where preterm premature rupture of membranes (PPROM) was confirmed. The child was delivered at 24 weeks' gestation and died 2 days after birth.

The woman sued the physician who took her late-night call, claiming the doctor was negligent in failing to diagnose ruptured membranes.

The defendant argued that the woman's symptoms were consistent with UTI, and claimed the membranes had not yet ruptured at the time of the initial phone call.

- The jury returned a defense verdict.

## **Small-bowel transection causes death**

### **Clark County (Nev) District Court**

A woman who underwent an abdominal hysterectomy died. The family claimed that during the surgery the physician transected the small bowel and then failed to recognize and treat the injury in a timely manner, leading to the woman's death. The family also claimed lack of informed consent.

The physician claimed that death was a known complication of the procedure.

- The jury returned a defense verdict.

## **Did OB ignore risk factors?**

### **Harris County (Tex) District Court**

A woman with gestational diabetes, significant maternal weight gain, and a prior macrosomic delivery presented for delivery, which became complicated by shoulder dystocia. The child suffered brachial plexus injury, leading to paralysis of her left arm and hand.

In suing, the plaintiffs alleged that the doctor used excessive force in delivering the child, and claimed he failed to appreciate the mother's risk factors for a complicated delivery.

- The jury returned a defense verdict.

## **Woman delivers fetus's head into toilet**

### **Fulton County (Ga) State Court**

A woman at 20 weeks' gestation went to the hospital with complaints of cramping and a lack of fetal movement. After an ultrasound was performed, the on-call obstetrician diagnosed intrauterine fetal demise.

The next day the woman's own obstetrician took over care. Before he could perform the planned vaginal delivery of the nonviable fetus and placenta, however, rapid cervical dilation to 6 or 7 cm led to a bulging bag of waters, and the small fetus had almost completely delivered except the head, which separated with normal traction and remained inside the uterus. Oxytocin was given to stimulate the process, without success. An evacuation procedure was performed to remove the remaining products of conception. The procedure was thought to be successful, and the patient was discharged.

However, the next day the woman was bleeding and felt unusual pressure and delivered part of the fetus's head into the toilet. The EMS crew placed the partial head into a zip-lock bag and transported it with the woman to the hospital, where any remaining products of conception could be removed.

In suing, the woman claimed negligence in the decapitation of the fetus and negligent performance of the dilation and evacuation. She also claimed to have posttraumatic stress disorder from seeing the partial head in the toilet.

The obstetrician alleged that the separation of the fetal head was unavoidable due to the woman's abnormal uterine anatomy and that she was upset at the loss of the fetus, but did not suffer posttraumatic stress disorder.

- A defense verdict was returned.

## Fetal injury from repeat vaginal delivery

### Undisclosed North Carolina venue

A woman who had already delivered a child with shoulder dystocia that resulted in Erb's palsy was pregnant for a second time and feared it would happen again. The mother expressed her fear to her obstetrician and inquired about a cesarean section. All prenatal assessments for fetal size indicated that the infant was large.

When the mother presented for delivery, a vaginal delivery was attempted. Maneuvers to relieve resulting shoulder dystocia were ineffective. A cesarean incision was then made; cephalic replacement was unsuccessful.

The infant was delivered with a broken neck, broken clavicle, and broken arm. The child also had massive brain damage and cortical blindness as a result of brain hypoxia. The child is quadriplegic and dependent on a ventilator and gastrostomy tube.

- The parties settled for \$13.5 million after a fourth formal mediation.

## Was delayed cesarean cause of cerebral palsy?

### US District Court, District of Ohio

A woman at 32 weeks' gestation had been undergoing weekly nonstress tests for a suspected small-for-gestational-age fetus. This time the test, which had previously returned normal results, was nonreassuring. The woman also reported that the fetus had not moved for 2 days. She was then discharged and instructed to return the next day for a biophysical profile.

When she arrived, the test could not be performed because the technician was ill. With fetal heart tones still nonreassuring, she was admitted to a Level I hospital for a possible cesarean section. The cesarean section was performed and the baby was noted to be distressed at birth. The baby was transferred to another hospital and diagnosed with cerebral palsy.

In suing, the woman claimed that she should have been transferred to a higher-level hospital and that the delay in performing the cesarean section was unnecessary. She also claimed that steroids were improperly administered.

The defense contended that based on the lack of fetal movement reported earlier, the child's injury occurred prior to hospital admission and that the woman refused suggested transfer to another facility.

- The parties reached a \$3.4 million settlement.

## Dilation & curettage fails to end pregnancy

### Hamilton County (Ohio) Common Pleas Court

A woman underwent a D&C at 7 weeks' gestation because her ultrasound showed a suspected blighted ovum. Two months later the woman thought she was still pregnant and returned to her ObGyn, who confirmed the pregnancy and told the woman he could not verify the child would be without injury.

The baby was fine at birth, but the woman had anxiety and depression concerning her child that developed almost into a psychosis.

In suing, the woman claimed negligence in the doctor's failure to perform additional testing before the D&C. The physician maintained that reliance on the ultrasound results was reasonable and that the plaintiff's fears were unreasonable because her child was healthy.

- The jury awarded the plaintiff \$372,000; posttrial motions were pending. ■

The cases in this column are selected by the editors of OBG MANAGEMENT from Medical Malpractice Verdicts, Settlements & Experts, with permission of the editor, Lewis Laska, of Nashville, Tenn ([www.verdictslaska.com](http://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.