

\$22 million awarded for cerebral palsy

Jefferson County (Ky) Circuit Court

At more than 40 weeks' gestation, a woman was admitted to a hospital for labor induction. Oxytocin was administered in increasing doses because of slow progress, but 10 hours after admission the infant was still not delivered. After failed vaginal delivery with vacuum forceps, the infant was eventually delivered by cesarean section.

The infant has spastic quadriplegia with severe speech and motor deficits, and is now confined to a wheelchair, requiring 24-hour care.

In suing, the woman contended the oxytocin caused uterine hyperstimulation and that the nurses failed to note that the oxytocin was not working. She claimed vaginal delivery should not have been attempted. She asserted the hospital was negligent in credentialing the physician, who was given full privileges without monitoring despite having been in practice for only a month at the time of the delivery.

The hospital countered that the woman and her infant had responded well to the oxytocin and that the hypoxic event resulted from unforeseeable and unpreventable movement by the fetus, which restricted the umbilical cord.

- The physician settled for a confidential amount prior to trial. The jury awarded the plaintiff \$22 million; posttrial motions are pending.

Contraindicated drug causes DVT

Roanoke (Va) City Circuit Court

After a 41-year-old woman underwent a hysterectomy, her physician prescribed

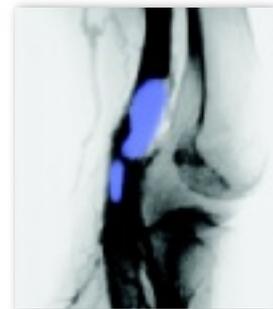
conjugated estrogens, despite the woman's history of deep venous thrombosis and the "black box warning" against use of conjugated estrogens in such individuals.

Shortly thereafter, deep venous thrombosis developed, leading to permanent partial loss of use of the left leg.

In suing, the woman asserted the physician should not have prescribed the medication when it was contraindicated.

The physician maintained the woman had not had an episode of deep venous thrombosis in more than 20 years, and that the medication was indicated because more than 90% of women who undergo oophorectomy require hormone treatment. The defense added that the woman had no evidence of permanent injury.

- The case settled for \$500,000.



Deep venous thrombosis

Would heparin have prevented death?

Hardin County (Ky) Circuit Court

A 46-year-old woman underwent a 3-hour-long vaginal hysterectomy. Before surgery and during recovery, an intermittent pneumatic cuff was used to minimize the risk of deep venous thrombosis.

A week after the surgery, 2 days after discharge, she reported extreme fatigue and trouble standing up. Despite the ObGyn's advice to walk around, she stayed in bed. A few hours later she died suddenly of a pulmonary embolus. In suing, the woman's family claimed the physician failed to prescribe heparin in response to the risk of pulmonary embolism, given the woman's age and long duration of surgery.

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Although the ObGyn admitted the woman was at high risk of pulmonary embolism, he contended that application of the pneumatic cuff was sufficient and that prophylactic heparin was not necessary.

- The jury returned a defense verdict.

Bladder fistula follows hysterectomy

Henderson County (Ky) Circuit Court

During a laparoscopic-assisted vaginal hysterectomy on a 32-year-old woman, the surgeon found extensive varicosities on the bladder flap. Bleeding was stopped by cauterization.

Three weeks later, the woman complained of leaking urine from her bladder. A small hole in her bladder had developed into a fistula.

In suing, the woman claimed the bladder was damaged during the cauterization and that the surgeon should have converted the operation to an open laparotomy to properly handle the vascular problems.

The defense contended cauterization was not near the bladder, and that fistulas can occur during hysterectomies without negligence.

- The jury returned a defense verdict.

Care costs awarded for wrongful birth

Rockland County (NY) Supreme Court

A 31-year-old woman had first-trimester and third-trimester bleeding, although results from 2 early ultrasounds were normal, as was a 20-week ultrasound.

Out of town about 3 weeks before her delivery date, the woman began profuse bleeding. Her physician told her to proceed to a local emergency department, which transferred her to another facility, where she learned for the first time that the fetus had intrauterine growth retardation.

Amniocentesis performed at a third facility revealed fetal chromosomal

abnormality and Wolf-Hirschhorn syndrome. She was told the infant would eventually have mental retardation, physical disfigurement, hearing loss, an inability to speak, and respiratory and feeding difficulties. The woman remained hospitalized and under strict bed rest until delivery. The infant was hospitalized for 4 months and then institutionalized because of the impending profound disabilities.

The woman filed suit for wrongful birth, claiming she would have had an abortion if she had known her infant's prognosis. She claimed her local physicians failed to properly monitor the pregnancy; failed to inform her that first-trimester bleeding indicates a chance of chromosomal damage; inappropriately advised her not to have alpha fetoprotein testing; failed to inform her or follow up on the 20-week ultrasound showing a 2-week discrepancy between her estimated due date and fetal development; and failed to obtain fundal heights measurements.

The defendants asserted they had no knowledge of the woman as their patient at the time of the trial. They also contended that they believed the woman would not have aborted the pregnancy under any condition.

- The jury awarded the plaintiff \$3.8 million (the estimated cost of care until age 21).

Alleged delay in diagnosis of ovarian cancer

Rockland County (NY) Supreme Court

After 3 normal visits to her ObGyn over a span of 8 months, and a negative sonogram, a woman presented complaining of pain in the adnexal region. A sonogram at this time led to the diagnosis of ovarian cancer. The woman underwent chemotherapy and a hysterectomy.

In suing, the woman asserted that her ObGyn should have suspected ovarian cancer and that earlier detection would have led to less invasive surgery and

could have obviated the need for chemotherapy.

The physician claimed that an earlier sonogram was unnecessary because the woman had no complaints of pain. The ObGyn also asserted that the treatment course would have been the same.

- The jury returned a defense verdict.

Was force excessive?

Cook County (Ill) Circuit Court

At 36.5 weeks, a woman was admitted for labor induction. Delivery of the head was followed by shoulder dystocia. The infant was born with a severe left brachial plexus injury and left torticollis. Despite 4 reparative surgeries, the left arm and hand have little useful function.

In suing, the woman asserted the physician used inappropriate and excessive force to complete the delivery, a claim the defense denied.

- The hospital settled for \$400,000 before the case went to trial. The jury returned a defense verdict.

What caused fecal incontinence?

Fulton County (Ga) State Court

A 37-year-old woman delivered a healthy infant after normal labor and vaginal delivery. After birth the woman had total fecal incontinence, and could no longer work or perform many activities. A sphincteroplasty to repair an anal sphincter tear was unsuccessful.

In suing, the woman asserted her physician failed to recognize, treat, or repair the tear during delivery.

Her physician countered that a history of hemorrhoidectomy and fistulotomy from 15 years before the birth should have been revealed in the medical history forms completed by the patient. The physician asserted that had he known about this medical history, he would have suggested a cesarean section. He also contended that some types of muscle

tears are unrecognizable.

- After 2 mistrials, the jury returned a defense verdict.

Delayed cesarean blamed for injuries

Essex County (Mass) Superior Court

Two weeks past her due date, a woman underwent artificial rupture of membranes in the morning; scant amniotic fluid was noted. Oxytocin was administered and late decelerations were noted.

Labor progressed slowly and the possibility of cephalopelvic disproportion was entertained.

Later that night the fetal heart rate demonstrated tachycardia. The plaintiff alleged that the nurses failed to make detailed notes in the patient's record or question the obstetrician's decision to continue with labor induction in the presence of a nonreassuring tracing. In the second stage, a vacuum-assisted vaginal delivery was attempted due to a prolonged deceleration of the fetal heart rate. Nine vacuum extractions were attempted and were unsuccessful.

The infant was delivered by emergency cesarean section with no heart rate, respirations, muscle tone, or reflex irritation. After resuscitation, the infant was transferred to another hospital, where seizures developed and cerebral palsy was diagnosed.

The woman sued both the obstetricians and the nurses. The defendants contended the fetal monitoring strips showed little, if any, signs of nonreassuring patterns. They also claimed the infant's injuries had other causes.

- The case settled for \$4 million.

Was lack of cesarean cause of injury?

US District Court, Eastern District of Texas

A 33-year-old woman gave birth via forceps delivery to an infant with cerebral palsy.

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In suing, the family claimed an occult prolapse of the umbilical cord during delivery caused hypoxia and the resulting brain damage. They asserted that the infant had umbilical cord depression and oxygen deprivation during delivery, along with 2 decelerations in fetal heart rate, which should have led to an emergency cesarean section. They also noted that the delivery should have occurred sooner than a half hour after the prolapse was noted. They faulted the nurses for failing to communicate important information to the physician. They also claimed the administration of misoprostol and oxytocin hyperstimulated the uterus.

The defense contended a cesarean section was not indicated prior to the prolapse and that ordering one at that point would not have resulted in an earlier delivery.

- The jury returned a defense verdict.

Did c-section delay cause infant death?

Fresno County (Calif) Superior Court

A 30-year-old woman presented for a vaginal birth after cesarean section. Immediately after the woman had intense burning pain with bright red blood and the fetal heart monitor recorded a precipitous drop in fetal heart rate, the Ob attempted a vacuum delivery, which was unsuccessful because the infant's head had moved upwards. An emergency cesarean section ensued. The infant was acidotic, depressed, with very low Apgar scores, and was diagnosed with global hypoxic ischemic encephalopathy and died 10 weeks later.

In suing, the woman asserted that the physician waited too long to perform the cesarean section; failed to inform her during prenatal care of the risks of VBAC; and failed to recognize that the fetal monitor strips indicated an impending uterine rupture.

The physician claimed the cesarean section was performed within 30 minutes of the decision to go that route, a delay

that is within ACOG guidelines. Additionally, the physician contended the woman was likely aware of the risks of VBAC, as this was her 3rd such delivery.

- The jury returned a defense verdict.

Severe shoulder dystocia associated with neurological injury

Unknown North Carolina venue

A woman presented to the hospital in labor at full term. After rupture of membranes, meconium-stained fluid was noted. The woman was fully dilated in 2 hours without anesthesia.

At delivery a severe shoulder dystocia was encountered. The first obstetrician tried multiple maneuvers, including a Zavanelli maneuver, but they were all unsuccessful. A second obstetrician who arrived then cut a fourth-degree episiotomy and rotated the fetus's head, which led to vaginal delivery within 30 seconds. The infant was neurologically devastated and died at 9.5 months.

In suing, the family claimed the physician failed to factor in the infant's weight, more than 10 pounds, when deciding on a delivery method and was negligent in the failure to perform an immediate cesarean section when meconium staining was encountered.

- The case settled for \$765,908. ■

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