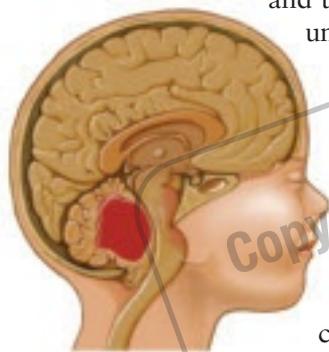


Defense cites child's medulloblastoma

New York County (NY) Supreme Court

Upon admission for delivery of her first child, a 36-year-old woman was given a small dose of oxytocin. Shortly thereafter the physicians noted fetal tachycardia, followed by bradycardia. Oxygen was given and the infant was delivered by vacuum extraction.



Medulloblastoma

During the next 2 days, the infant had several seizures. She was eventually diagnosed with hypoxic ischemic encephalopathy, resulting in mild retardation with cognitive and learning disabilities.

After claims against the physicians were dismissed, the plaintiffs proceeded to trial against the hospital, claiming it failed to identify nonreassuring signs on the fetal heart monitor and failed to repeat a scalp pH test. The plaintiffs asserted a cesarean section should have been performed as soon as tachycardia occurred.

The defense asserted the arterial blood gas analysis showed a normal pH level and modest base excess, and claimed the infant's EEG was nonspecific. The defense also claimed the child's medulloblastoma, which was diagnosed at age 6, was the cause of the cognitive and learning disabilities.

- The hospital settled for \$2.75 million.

Incontinence blamed on surgeon sued 20 times

Kings County (NY) Supreme Court

A 45-year-old woman complaining of abdominal pain and bladder pressure was

diagnosed with ovarian cysts, and a laparoscopy was planned for their removal. A laparotomy was actually performed, after which the woman had urinary incontinence. During an evaluation, a ureteral obstruction was diagnosed. Despite multiple corrective surgeries, the urinary incontinence persisted.

In suing, the woman alleged the surgeon performed the laparotomy improperly. A \$1 million settlement was reached with the physician and the case proceeded to trial against the hospital.

The woman faulted the hospital for failing to supervise the surgeon, who had been sued for medical negligence more than 20 times, which she claimed should have led to mandatory supervision during surgery.

Parties for the hospital claimed the physician was properly credentialed and that most of the suits against him either were dismissed with no payment or resulted in a defense verdict. They noted that none of the prior suits claimed surgical negligence.

- After the jury returned a verdict for the plaintiff, the hospital moved to vacate the verdict, which the judge granted. The matter was dismissed, but an appeal is pending.

Both OBs deferred cesarean

Suffolk County (Mass) Superior Court

A woman was admitted at 41 weeks' gestation because of a nonreactive nonstress test. The baseline fetal heart rate was in the 160s. A VBAC delivery was planned.

The first OB noted that the fetal heart rate dropped to the 70s for 3 minutes with a contraction, and that the cervix was thick and dilated 1 cm. He noted a plan to use

IMAGE: BRICK COX

dinoprostone gel and induce labor in the morning. Shortly thereafter the labor nurse noted mild irregular contractions in response to the gel. Intermittent late decelerations were noted before a second OB took over care.

Several hours later a prolonged deceleration to the 70s–90s occurred for 10 minutes. Cesarean section was performed an hour later. The infant was born with neurological and physical deficits.

In suing, the mother claimed the physicians failed to intervene despite signs of fetal distress, and the second OB failed to expedite delivery.

The second physician claimed there was no justifiable basis for proceeding to cesarean section any sooner than he did.

- The outcome of the case against the first physician is unknown. The second defendant settled for \$900,000.

Sepsis, renal failure, coma after hysterectomy

Pinellas County (Fla) Circuit Court

A 39-year-old diabetic woman suffering from abdominal pain and excessive uterine bleeding underwent a hysterectomy. An abdominal x-ray was obtained 8 days later by a family physician because the woman continued to experience complications. The patient was discharged 3 days after that, and presented to the emergency department about a week later complaining of abdominal pain.

Exploratory laparotomy revealed a vaginal cuff infection, which was debrided, irrigated, and repaired. Complications developed again over the week, including sepsis, renal insufficiency, respiratory distress syndrome, and coma. Her condition continued to deteriorate during an extended hospitalization. She required a percutaneous endoscopic gastrostomy tube for nutrition, long-term intubation, and daily hemodialysis. An EMG 3 months after the hysterectomy revealed severe peripheral neuropathy in the right leg.

In suing the surgeon and the family physician, the woman claimed the x-ray shortly after the hysterectomy had revealed the vaginal cuff problem, to which she alleged the physician did not respond. She also claimed the physician did not review test results prior to her discharge.

The physician contended the neuropathy resulted from the woman's preexisting diabetes and noncompliance with her diabetes therapy.

- The surgeon settled with the plaintiff for a confidential sum before trial; the jury returned a defense verdict.

Were maternal and fetal danger signs ignored?

Nassau County (NY) Supreme Court

A 33-year-old woman in the late stages of pregnancy presented to a hospital with nausea and abdominal pain. The examining physician concluded she had dehydration, and released her. The woman delivered an infant about 6 weeks later who had severe brain damage, cerebral palsy, cognitive disability, cortical blindness, and seizures.

In suing, the woman alleged the physicians failed to provide proper monitoring during delivery. Specifically, she claimed the fetal monitor revealed nonreassuring, distressed heart rates that were not recognized, resulting in a hypoxic event that caused brain damage.

The woman also asserted the defendants failed to consider that her 2 prior pregnancies were complicated by hypertension and gestational diabetes, so that this pregnancy should have been treated as high risk. According to the plaintiff's expert, the episode of nausea and abdominal pain should have led to blood, glucose, and urine tests that would have revealed fetal and maternal distress and would have led to immediate cesarean section.

The physician claimed the brain damage occurred before delivery and was unrelated to his actions or inactions. He asserted that the infant had prebirth prolonged protein-S deficiency that caused a

dural-sinus thrombosis and hemorrhage. The defense also claimed the infant had prebirth vascular abnormalities and a vascular lesion resulting in disruptions of the circulatory system that led to the brain damage.

- The case settled for \$3.7 million.

Was injury due to large infant or inexperience?

Harris County (Tex) District Court

A woman with gestational diabetes gave birth to an infant with a brachial plexus injury. At the time of delivery, some questions were raised about macrosomia and whether the infant would easily pass through the birth canal. Several physicians of varying levels of experience participated in the delivery after the infant became stuck in the birth canal, using various standard manipulations. The shoulder injury was described as a “three-level avulsion,” and the child is unlikely to ever have much use of the arm.

- The case settled for a confidential sum.



Brachial plexus injury

Fetal heart rate “sufficiently reassuring”

Unknown Massachusetts venue

Several weeks before she delivered, a pregnant woman fell, requiring hospitalization. Irregular contractions were noted, although no preterm labor or abruption occurred. Three weeks after discharge, at 37 weeks’ gestation, the parents presented to the defendant physician for a regularly scheduled visit. Ultrasound revealed the fetus was in the category of less than 10% for weight. A decision was made to induce labor.

The woman initially had variable decelerations to 90 with recovery to the 140s with moderate beat-to-beat variability. After 20 minutes of the mother pushing,

decreased long-term variability during the recovery phase led to a decision to proceed to operative delivery. A vacuum extractor was applied 3 times for 60 seconds each time, bringing the head to +4 station. The fetal heart rate became more reassuring and the mother continued to push.

The infant was delivered with Apgar scores of 2, 6, and 7. The infant was limp with no respiratory effort and poor color. Cord blood arterial pH was 7.1. The infant was placed on CPAP and given bicarbonate. In the NICU the infant had apneic episodes that did not respond to stimulation, and his oxygen saturation levels fell to the 50s with a heart rate of 100.

A CT scan revealed occipital/parietal and subarachnoid blood, along with subdural bleeding. MRI confirmed the bleeding with possible parenchymal ischemia. The infant was eventually diagnosed with gastroesophageal reflux disease, encephalomalacia, and severe developmental delays.

In suing, the mother faulted the defendant for attempting to induce delivery and failing to properly monitor the delivery.

The physician denied any deviation from the standard of care and asserted the fetal heart rate pattern was sufficiently reassuring to allow labor to continue.

- The case settled for \$1.7 million.

ObGyn was negligent, but didn’t cause injury

Fayette County (Ky) Circuit Court

A 33-year-old woman with major vaginal bleeding was scheduled for an outpatient dilation and curettage. During the procedure, the physician switched to ablation of the uterus. The physician allegedly did not immediately advise the woman of the change. Complications developed, and ultimately she required a hysterectomy.

In suing, the woman contended the physician mutilated her uterus, in effect sealing the cervix so menstrual flow could not escape. She claimed the physician per-

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formed the ablation of the uterus without her consent and did so negligently.

The physician denied negligence, asserting the D&C was insufficient to control the bleeding and that only ablation would provide relief, so that she was justified in continuing without explicit written consent.

- The jury returned a defense verdict. It found that while the physician was negligent, the error was not a substantial factor in causing injury. ■

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