

## Woman recants request for hysterectomy after she remarries

**Harris County (Tex) District Court**

Over the course of 12 years, a woman had had various obstetric and gynecologic problems, among them adhesions, ovarian cysts, and possible endometriosis. She had ongoing pelvic pain, which was occasionally severe. She was treated with various medications and underwent several surgeries, including removal of her left fallopian tube and ovary due to infection.

After having 2 children, the woman had her remaining tube ligated. Six years later she presented to an emergency department complaining of severe pelvic pain. Three days after a surgical consult suggested the pelvic pain was gynecologic in origin, she requested and underwent a hysterectomy.

In suing, the woman, now divorced and remarried, contended the physician should have obtained more consults, including a psychiatry consult, prior to the hysterectomy to rule out other causes of the pelvic pain. She claimed her request for the hysterectomy did not justify the performance of the procedure. She noted that she had a new marriage and planned to have her tubal ligation reversed because of a desire to have more children.

- The jury returned a defense verdict.

## Was Brannon pack “too big to overlook”?

**Hillsborough County (Fla) Circuit Court**

After a total abdominal hysterectomy with bilateral salpingo-oophorectomy for abdominal pain and postmenstrual spot-

ting, a 43-year-old woman had a temperature as high as 102°F and bilious projectile vomiting. An x-ray 3 days after surgery revealed a foreign object in the upper abdomen. During exploratory laparotomy, a lap sponge (Brannon pack) was removed.

In suing, the woman claimed the physician was negligent in failing to remove the Brannon pack. The defense asserted that the physician was entitled to rely on the hospital staff report that the sponge count was correct. The woman claimed the Brannon pack was so large that it should not have been overlooked.

- The hospital settled prior to the filing of the lawsuit for an undisclosed amount. The jury awarded the plaintiff \$22,500.

## Manifold errors charged in cerebral palsy case

**King's County (NY) Supreme Court**

At 29 weeks' gestation, a woman with diabetes and a history of preterm delivery was admitted for mild-to-moderate contractions. Her physician and the perinatologist on staff ordered magnesium sulfate to stop contractions, but labor progressed. The infant was born with Apgar scores of 4 and 4. She was limp, blue, and not breathing. She was intubated for 4 days and discharged after 3 months, with a diagnosis of periventricular leukomalacia. The child has no use of her legs and little use of her right arm. She is wheelchair bound and cannot attend to her daily needs. She has full cognition and above-average intelligence and is doing well in school.

In suing the hospital and the physicians, the woman claimed the physicians should have prescribed antibiotics because infection is a known cause of preterm labor. She

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also asserted that the hospital and the physician improperly reduced the magnesium sulfate, allowing labor to progress. She claimed the hospital staff failed to monitor the fetal heart tracings, which revealed variable decelerations, reduced accelerations, and reduced variability. She claimed failure to perform a cesarean section resulted in cerebral palsy and brain damage.

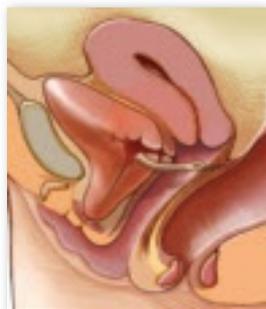
The hospital maintained the physician was in charge of the labor and delivery, and made all the decisions. The defendants claimed the care given was appropriate.

- The jury awarded the plaintiff \$29.3 million, with fault divided 35% to the hospital and 65% to the physician. The plaintiff had agreed to a high/low settlement with the hospital only; a \$5 million settlement was reached.

## Defense: Consent form warned of dangers

### Fresno County (Calif) Superior Court

A 39-year-old woman with a 1-year history of pelvic pressure due to uterine fibroids underwent a hysterectomy. Five days after hospital discharge, she complained of urinary incontinence. A urologist diagnosed a vesicovaginal fistula and recommended surgery.



Vesicovaginal fistula

Ultrasound examination of the kidneys a month later was suggestive of a left ureter injury. The bladder leak and the ureter were repaired soon afterward.

In suing, the woman claimed the physician performed the hysterectomy negligently and failed to perform a postoperative intravenous pyelogram to reveal the bladder and ureter problems.

Denying negligence, the surgeon pointed out that the written consent form explained the risks posed to other organs by the surgery. He noted that the surgical

field had substantial adhesions and scar tissue, complicating the procedure. He also claimed the woman would not consent to an intravenous pyelogram because of an iodine allergy.

- The jury returned a defense verdict.

## Diabetes undiagnosed until emergency delivery

### Kings County (NY) Supreme Court

Because traces of glucose were found in the urine of a 38-year-old pregnant woman, her ObGyn ordered a standard glucose tolerance test. She was unable to drink the liquid necessary for the test, however, and there was no follow-up.

Six months later the woman presented to a hospital complaining of decreased fetal movement, excessive thirst, dry mouth, and vomiting. The hospital physician placed her on a fetal monitor and discharged her several hours later. The next day after reviewing the fetal heart monitor results, her ObGyn asked that she return to the hospital. The hospital physician ordered an emergency cesarean section after an abnormal scalp pH test result.

At birth, the infant weighed 11 lb 14 oz and his Apgar scores were 1, 2, and 5. After a seizure the infant was given anti-convulsants and remained in ICU for 17 days. He was diagnosed with perinatal asphyxia, acidosis, and hypoglycemia. Now 12, the child has mild mental retardation and attention deficit disorder, as well as cognitive and learning disabilities.

The mother claimed the defendants failed to diagnose gestational diabetes in a timely manner, and failed to proceed to immediate cesarean section when the non-reactive and nonreassuring heart rate pattern was noted. The gynecologist asserted he ordered the glucose tolerance test to rule out diabetes, and that the diabetes was not the cause of the fetal distress.

- Damages were set at \$4.1 million. The jury assigned fault 55% to the hospital, 25% to the hospital physician, and 20% to the gynecologist.

IMAGE: BIRCK COX

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## Abnormal fetal tracing and spastic quadriplegia

### Queens County (NY) Supreme Court

In her 37th week of pregnancy, a 19-year-old woman presented to her hospital at 4 cm dilated. She was instructed to ambulate to help induce labor. Two hours later she was given an epidural and placed on a fetal heart monitor. Physicians ruptured her membranes and noticed meconium staining. During the next few hours, fetal distress was recorded; the fetus did not descend into the birth canal, but remained at minus-1 station.

The infant was delivered by cesarean section and had Apgar scores of 2, 4, and 5. After transfer to another facility, the child was diagnosed with microcephaly and spastic quadriplegia.

The woman asserted the delayed cesarean section led to oxygen deprivation that caused the infant's injuries.

- The case settled for \$2.95 million.

## Unpredictable event to blame, jury agrees

### St. Louis County (Mo) Circuit Court

A woman at 41 weeks' gestation arrived at the hospital with ruptured membranes and was given oxytocin at 5:25 PM. At about 6 PM the fetal heart rate fell from 130 to 90 and sometimes 70.

Because of difficulties with the fetal monitor, the nurse switched from an external monitor to an internal lead attached to the fetus's scalp. Although the fetal heart rate improved, another deceleration was noted at 6:11 PM. The nurse adjusted the position of the mother, turned off the oxytocin at 6:23 PM, and called the physician 3 minutes later to alert him to the decreased fetal heart rate.

The physician suggested several interventions and told the nurse to call him back with another update. Although the nurse increased IV fluids, administered oxygen, and turned the mother to increase fetal circulation, the deceleration continued. The physician was called again at 6:37 PM; he

arrived at the hospital at 6:50 PM for an immediate cesarean section.

The infant was delivered at 7:11 PM with no pulse or respirations. Cerebral palsy due to perinatal hypoxia was diagnosed. The child is confined to a wheelchair, unable to move any part of her body except for one arm. Now age 15, she cannot speak or swallow, and requires a feeding tube. The plaintiff faulted the nurse for failing to recognize signs of fetal distress in a timely manner, and the physician for failing to come to the hospital after the first phone call and failing to recognize the need for cesarean section sooner.

The defense denied any negligence and asserted the injury was caused by an unpredictable, profound, and sudden event.

- The jury returned a defense verdict.

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Supported by an unrestricted educational grant from Berlex Inc.