

Vocal cord, carpal tunnel damage alleged after cystectomy complications

Bronx County (NY) Supreme Court

A 37-year-old woman underwent laparoscopic surgery for removal of an ovarian cyst. After the cyst was removed, the patient had hypotension and tachycardia. She received 12 blood transfusions but her condition did not improve.

Exploratory surgery after internal bleeding was diagnosed revealed a lacerated abdominal artery. After the artery was repaired, the patient's condition still did not improve. A dye-injection procedure showed another arterial laceration, which was repaired during a third surgery.

Plaintiff claims. In suing, the woman claimed the lacerations were caused by improper insertion of the trocar. In addition she claimed she had an allergic reaction to the blood transfusions, which caused respiratory distress and the need to be intubated.

According to the patient, the intubation caused permanent paralysis of her vocal cords. Additionally, she contended she developed carpal tunnel syndrome as a result of prolonged bed rest.

The patient maintained that her condition warranted emergency exploratory surgery and that the physician should have repaired both lacerations during the initial surgery.

Defense. The physician argued that arterial lacerations are a well-known risk factor of laparoscopic surgery and that he treated both lacerations appropriately.

He also contended that the patient's vocal cords were not paralyzed and that she did not have carpal tunnel syndrome.

- The jury returned a defense verdict.

Did delayed c-section damage twins' kidneys?

Queens County (NY) Supreme Court

A 27-year-old woman at 28 weeks' gestation with a twin pregnancy presented to the hospital complaining of painful vaginal bleeding. Fetal heart monitor tracings revealed a sinusoidal pattern. Fifty minutes later, twin girls were delivered by cesarean section. Both girls were born with kidney problems. One twin died from renal failure 6 weeks later. The other twin survived but suffers from chronic kidney problems.

The mother claimed the girls' kidney problems were caused by the obstetrician's delay in performing the cesarean section. The physicians acknowledged that a sinusoidal pattern is an emergency, but contended that the kidney problems were caused by a congenital defect that caused prenatal complications, which resulted in the sinusoidal pattern. The obstetrician claimed the 50-minute delay was caused by the anesthesiologist's need to perform necessary setup procedures.

- The case settled for \$1.5 million, including \$250,000 for the wrongful death of the other twin.

\$3 million in punitive damages follows fatal hysterectomy

Lubbock County (Tex) District Court

A 36-year-old woman with a history of pain and endometriosis underwent laparoscopic hysterectomy. After she was transferred from recovery to the hospital floor, a decrease in her urinary output was noted. A fluid challenge test, hemoglobin, and hematocrit levels were ordered. The patient's hemoglobin level was 9.8 g/dL,

and she remained oliguric after the fluid challenge test. Because the physician was in surgery, the patient's status was reported to him via his voice mail, which he did not check. When the patient's blood pressure decreased, the physician was called again.

The patient vomited and aspirated and suffered hypoxic brain injury and organ damage. She was removed from life support a few days later.

In suing, the plaintiff's representatives claimed the physician did not monitor the tests that were ordered and failed to check the patient after finishing his other surgery. They also claimed that the communication between the physician and hospital staff was deficient and that the nurses had difficulty reaching the doctor.

The physician countered that the nurses failed to properly monitor the patient and report changes in her status.

- The jury awarded the plaintiff \$14 million (the physician paid 75% of this amount, which included \$3 million in punitive damages; the hospital was responsible for 25%).

Trocar angle blamed for perforated bladder

Philadelphia County (Pa) Common Pleas Court

Two days after undergoing laparoscopic tubal ligation, a woman had blood in her urine, abdominal pain, and vomiting. She was admitted to the hospital and diagnosed with a perforated bladder.

Although the patient's condition seemed to improve after 2 days, she suffered severe respiratory distress and was moved to the ICU. Exploratory laparotomy revealed necrotizing tissue surrounding the perforated bladder. A severe infection ensued and the patient remained unconscious in the ICU for 2 weeks. She eventually recovered and was discharged.

In suing, the woman asserted that the surgeon improperly inserted a second trocar at a downward angle toward the bladder rather than at an upward angle to reach the fallopian tubes.

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The physician contended that bladder perforation can occur during tubal ligation and that he had informed the woman of this risk before the operation.

- The jury awarded the plaintiff \$5 million.

Jury finds oophorectomy was appropriate

Madison (Ky) Circuit Court

A 33-year-old mother of 3 who did not want more children underwent laparoscopic vaginal hysterectomy for heavy menstrual cycles and pelvic pain. Both ovaries were removed and the patient was placed on long-term hormone therapy.

After surgery the woman claimed she did not consent to have her ovaries removed. The patient contended (although the physician denied) that when she confronted the physician about the ovary removal he responded, "I must be senile."

The physician asserted that he told the patient he would visualize the entire area and repair whatever was necessary. During the procedure, the physician found that both ovaries were severely adherent to the uterus and that one had a cyst. The physician claimed that the decision to remove the ovaries was the appropriate treatment.

- The jury returned a defense verdict.

Ureter injury during hysterectomy leads to nephrectomy

Adair County (Mo) Circuit Court

Despite several adjustments in hormone replacement therapy, a 66-year-old woman had vaginal bleeding lasting longer than 1 year. Distressed by the bleeding, she said she would consider hysterectomy.

The physician to whom she was referred discussed a dilatation and curettage (D&C) and a hysterectomy, gave her literature on both procedures, and arranged for her to see an interactive video about the 2 procedures. The woman opted for a hysterectomy. After a

history and physical examination the next month, both options were again discussed, and again she chose a hysterectomy.

During laparoscopic vaginal hysterectomy several months later, an inadvertent cystotomy was performed and both ureters avulsed. Another surgeon reimplanted the ureters and placed stents, which were removed after 6 weeks. Three months later the right kidney showed signs of reduced function. The woman declined reimplantation of the right ureter. Thereafter, she had abdominal, flank, low back, and leg pain. Nearly 7 years later, her right kidney was removed.

In suing, the woman claimed the hysterectomy was unnecessary and argued that she should have undergone either a D&C or endometrial ablation. She also asserted the physician performed the operation in the wrong plane, thereby damaging the ureters and bladder.

The physician contended that the surgery was within the standard of care for the woman's condition and that the injury was a known potential complication that was discovered intraoperatively and repaired. He contended that the injury was caused by a Deaver retractor used during the repair surgery.

- The jury returned a defense verdict.

Patient's request for fetal reduction too late?

San Bernardino County (Calif) Superior Court

At 10 weeks' gestation, a woman pregnant with quadruplets discussed fetal reduction with her obstetrician to increase her chances of giving birth to a healthy infant(s). Her next appointment was 5 weeks later.

When she returned to the clinic, she was told it was too late to perform selective termination. About 12 weeks later the woman gave birth to quadruplets. One died within 24 hours from hyaline membrane disease and 2 have cerebral palsy. The fourth child is healthy.

In suing, the woman claimed the

obstetrician did not inform her that his practice had a policy prohibiting fetal reduction after 14 weeks' gestation and failed to refer her to a perinatologist who could have performed the procedure.

The health maintenance organization claimed they told the woman about their policy against performing selective termination after 14 weeks and that she had declined to have the procedure before that time.

- The case settled for \$2.6 million.

Improper diagnosis leads to premature birth

Baltimore County (Md) Circuit Court

A woman reported to the hospital at 25 weeks' gestation complaining of abdominal pressure and contractions. The physician diagnosed a shortened cervix and discharged her.

Before the woman left the hospital she began to bleed, and an emergency cesarean section was performed.

In suing, the woman charged that the physician failed to properly treat the signs of premature labor. The child, who is now 3 years old, is blind, has cerebral palsy, is unable to communicate, and has limited mental status. The defendants argued that the treatment given was appropriate.

- The jury awarded the plaintiff \$6.9 million. ■

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, Nashville, Tenn (www.verdictslaska.com). The available information about the cases is sometimes incomplete; pertinent details may be unavailable. Moreover, the cases may or may not have merit. Still, these cases represent types of clinical situations that may result in litigation and are meant to illustrate variation in verdicts and awards. Any illustrations are generic and do not represent a specific legal case.

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E-mail: obg@dowdenhealth.com

Fax: 201-391-2778

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