

Gyn neglected—twice—to read patient’s lab reports

A 51-YEAR-OLD WOMAN went to her gynecologist for her annual pelvic exam. A Pap smear was obtained and sent to the lab. The lab report stated that the smear was within normal limits, and also reported the presence of an incomplete specimen with no endocervical component in a menopausal patient. The gynecologist had the report filed without reading it. The patient was not told about the incomplete Pap smear or offered the chance to have it repeated. When she returned the following year for her exam, the lab reported again that the Pap smear was normal, but mentioned the presence of inflammation and/or infection. Once again, the report was filed without the physician reading it. Four weeks later, the patient had a vaginal hemorrhage and returned to the same gynecologist. A biopsy and other tests indicated stage IIIB cervical cancer. Treatment included chemotherapy, brachytherapy, and external beam radiation. The cancer went into remission, but returned a year later. A total pelvic exenteration was performed. The patient now requires an ileostomy and a urinary conduit.

▶ **PATIENT’S CLAIM** The gynecologist was negligent for failing to read the reports and failing to perform proper pelvic exams. The lab was negligent for misreading the Pap smears. Also, the first Pap smear showed an unreported high-grade intraepithelial lesion, and the second showed unreported invasive squamous cell carcinoma.

▶ **DOCTOR’S DEFENSE** The gynecologist admitted that she never read the lab reports as they were filed by another who apparently read them. No

further testing was needed as the results were within normal limits.

▶ **VERDICT** \$2.5 million settlement with the laboratory during trial; a \$30 million gross New York verdict was returned. A jury found negligence by the gynecologist, and assigned 10% of liability to the laboratory. Net recovery was \$29.5 million, reached by offsetting the liability finding and adding the settlement. Pending was a posttrial motion arguing that the verdict was excessive.

Adolescent mom has hysterectomy due to infection

A 16-YEAR-OLD PATIENT presented at the hospital at term for delivery of her infant. Her labor arrested, and a family practitioner delivered a healthy baby by cesarean section. The mother developed a surgical wound infection, which was treated with intravenous antibiotics. She improved initially. One week after surgery, the wound opened and drained spontaneously. Further surgery showed a deep uterine infection or endomyometritis. To save the patient’s life, a hysterectomy was performed. She recovered eventually with no residual problems.

▶ **PATIENT’S CLAIM** The physician should have administered prophylactic antibiotics at the time of delivery because of the patient’s high risk of infection.

▶ **DOCTOR’S DEFENSE** Use of prophylactic antibiotics at delivery is not the standard of care. Also, the infection could not have been diagnosed earlier.

▶ **VERDICT** Illinois defense verdict.

Surgery causes, but can’t fix, foreshortened vagina

A 52-YEAR-OLD WOMAN experiencing urinary incontinence, constipation, and pressure in her pelvis was diagnosed by her ObGyn with a cystocele, rectocele and enterocele. Of two surgical options offered, she chose the one that would allow normal sexual relations. The surgery went well. At her second postop follow-up exam, she was told that everything had healed, the vaginal wall was intact, and she could resume sexual intercourse. But intercourse was impossible due to a foreshortened vagina—only 4 cm—and her incontinence had worsened. Two years later, a second physician performed reconstructive surgery, which corrected the incontinence but only slightly improved the foreshortened vagina.

▶ **PATIENT’S CLAIM** The ObGyn did not perform the correct procedure; his technique was not good; there was no informed consent; and the procedure caused excessive scarring and removed more than half of the vagina.

▶ **DOCTOR’S DEFENSE** There was informed consent; excessive scarring is a recognized complication; and the patient failed to return for further follow-up exams and to follow instructions on the use of estrogen and dilators.

▶ **VERDICT** \$1,580,000 Indiana verdict, including \$300,000 to the husband for loss of consortium. This was reduced to the statutory cap of \$1,250,000. ☹

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