

Would you recognize appendicitis here?

A 20-YEAR-OLD WOMAN in the third trimester of pregnancy went to Dr. A, her ObGyn, complaining of abdominal pain. On each of the next 3 days, she presented at the emergency room with the same complaint. She was discharged twice, but was admitted on the third day. Dr. B provided care that day, and Dr. A took over on the following day. The patient was prescribed antibiotics after an infection was diagnosed. Then, after giving birth on that same day, her condition worsened. A ruptured appendix was discovered during exploratory laparotomy. The patient continued to decline and then died 3 weeks later.

▶ **PLAINTIFF'S CLAIM** Failing to diagnose the appendicitis was negligent. On the 4 days the patient complained of pain, there was neither hands-on examination of her abdomen nor CT scans ordered. The nurses failed to recognize her condition and to see that she was properly evaluated.

▶ **PHYSICIANS' DEFENSE** Dr. A claimed his evaluation was performed properly. Dr. B claimed that, on the day the patient was admitted, he made a proper evaluation based on phone triage. The hospital claimed that the nurses performed proper triage and monitored her properly. And all claimed that a laparotomy required waiting until after delivery to be performed.

▶ **VERDICT** Kentucky defense verdict. Posttrial motions were pending.

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 (www.verdictslaska.com). The available information about the cases presented here is sometimes incomplete; pertinent details of a given situation therefore may be unavailable. Moreover, the cases may or may not have merit. Nevertheless, these cases represent the types of clinical situations that typically result in litigation and are meant to illustrate nationwide variation in jury verdicts and awards.

When findings are benign, should you refer, just to be safe?

A 36-YEAR-OLD PATIENT with presumptive fibroid tumors underwent a hysterectomy in which the ovaries and fallopian tubes were not removed. The pathologist initially reported that one tumor was benign, but that he was performing further tests. His second report confirmed the benign diagnosis and included mitotic count and spindle cells in the description of the microscopic exam. A year later, the patient developed abdominal pain, and the physician removed the fallopian tubes and ovaries. This time the same pathologist reported malignant uterine sarcoma in the ovaries. Upon reexamination of the previous year's tissue, he believed the first tumor to be similar. A diagnosis of metastasis was given almost 2 years later.

▶ **PATIENT'S CLAIM** She should have been referred to a gynecologic oncologist when the tumors were removed. This would have allowed her to be treated earlier and more effectively.

▶ **PHYSICIAN'S DEFENSE** The initial diagnosis was benign and thus did not require a referral. Also, no adjuvant therapy would have improved the patient's prognosis with this rare cancer.

▶ **VERDICT** \$2 million Illinois verdict.

Dystocia case is heard in bench trial

SHOULDER DYSTOCIA was encountered during delivery of the plaintiff child at a federally funded clinic. The OB used traction to complete the delivery, and the child suffered right brachial plexus injury, resulting in Erb's palsy. No surgery was per-

formed. The clinic was covered by the Federal Tort Claims Act, and the case was tried in a bench trial.

▶ **PATIENT'S CLAIM** The treating OB used excessive traction, causing injury to the right brachial plexus.

▶ **PHYSICIAN'S DEFENSE** Only moderate traction was used.

▶ **VERDICT** \$2,525,584 Illinois bench verdict. The court found the following: (1) negligence by the physician for repeatedly applying moderate traction to the point of excessive traction and rotating the infant's head while the shoulder was trapped; (2) inappropriate grasping of the head while applying excessive traction; (3) failure to cut a generous episiotomy after shoulder dystocia was recognized; (4) failure to try other noninvasive measures before using excessive force; and (5) failure to recognize the likelihood of a macroscopic fetus.

No OB is available; complications ensue

SHORTLY AFTER a woman was admitted to the hospital for the birth of her child, complications occurred. The infant was delivered but suffered hypoxia and brain damage.

▶ **PATIENT'S CLAIM** No OB was readily available to assist with the delivery. The nurses acted to delay the birth despite evidence that a hypoxic event was in progress and immediate delivery—even by a nurse—was essential. Fetal bradycardia continued for 5 to 6 minutes, resulting in hypoxia and brain damage in the infant.

▶ **PHYSICIAN'S DEFENSE** Not reported.

▶ **VERDICT** Confidential Utah settlement with the hospital. The physicians had been dismissed in summary judgment rulings. ☹