

5th Advanced Forum on



Business Information
In A Global Context



Obstetric Negligence

The Latest Updates on Preventing, Managing
and Defending Claims in Obstetric Negligence

Hear from top legal practitioners,
barristers and physicians, including:

Michael Powers QC, Barrister
ADR Chambers

Martin Spencer QC, Barrister
Hailsham Chambers

Elizabeth-Anne Gumbel QC, Barrister
One Crown Office Row

David Wilby QC, Barrister
Old Square Chambers

Edward Shaxted
Obstetrician and Gynaecologist
Northampton General Hospital

Simon Readhead QC, Barrister
1 Chancery Lane

Carolynne Vaizey, Consultant Surgeon
and Chairman of Surgery
St Mark's Hospital, London

Roger Clements FRCOG,
Obstetrician and Gynaecologist
Harley Street

Mr Abdul Sultan
Consultant Obstetrician and Gynaecologist
Mayday University Hospital

Dr Peter Ellis, Barrister
7 Bedford Row

Peter McNeil, Partner
Field Fisher Waterhouse LLP

Jane Tracy Forster, Barrister
Hailsham Chambers

Astrid Osbourne, Consultant Midwife
University College London Hospital

Stephanie Code, Partner
Charles Russell

Majid Hassan, Partner
Capsticks

...plus many more – details inside

22 – 23 May 2008 • Jurys Great Russell Street Hotel, London, UK

Over two content-packed days, industry experts
will guide you through the following key issues:

- What is new in obstetric negligence
- The connection between shoulder dystocia and brachial-plexus injury
- Using experts effectively
- The value of pre-natal screening and diagnosis
- Caesarean sections on demand: current controversies
- Guidance on how to conduct a successful cerebral palsy claim
- Common negligent errors in obstetric cases
- Effectively assessing quantum in light of NHS provisions and recent law reform

Practical, Interactive Pre-Conference Master Class:

Successfully Handling an Obstetric Malpractice
Case from Start to Finish

"Greatly increased my knowledge regarding managing a medico-legal claim."

Megan Hooper, McCann Fitzgerald (Obstetric Negligence Conference, 2005)

"A very well organised conference. Big BRAVO to the C5 team. Very well done!"

Urs Jaisli, Roche Pharmaceuticals (Pharmaceutical Product Liability Conference, 2007)

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Obstetric negligence claims are a major source of litigation against the NHS and other UK healthcare providers. The regulatory, legal and medical environments in which these claims are heard are becoming increasingly complex and it is becoming even more difficult for professionals to stay abreast of changes to medical procedures and the law.

In this increasingly challenging environment, it is more important than ever that physicians and lawyers have up-to-the-minute legal and medical information to help them minimise risk and defend obstetric negligence claims.

C5's Advanced Forum on Obstetric Negligence is *the* industry event for anyone working in the field. Register for this event and ensure that you are completely up-to-speed with the latest developments and current best practice.

Whether you're a medical professional, medical liability insurer or lawyer, you'll come away with valuable information that will enable you to minimise risk going forward and better manage and defend these complex claims.

Improve and perfect your obstetrics practice or learn how best to protect yourself from litigation at this essential event. Get up-to-date on all the latest amendments to the law and explore best practices in obstetrics and the management of obstetric negligence claims.

By attending this forum you will learn how to:

- Assess quantum: find out what the courts are currently awarding
- Successfully manage a cerebral palsy claim
- Determine best practice in cases of foetal asphyxia, shoulder dystocia and other emergencies

Don't miss out on this opportunity to learn from and network with those at the top of their field in obstetrics and those lawyers that manage obstetric negligence claims.

C5 conferences are established and acclaimed as the best legal conferences in the industry. They offer you a unique opportunity to:

- Hear from, network with and benchmark yourself against your industry colleagues, competitors, key figures and market leaders
- Get right up-to-date with the changing legal environment

Participants will also receive a comprehensive set of written materials prepared by the speakers for the conference. These are invaluable reference materials which you will use again and again long after the conference is over.

Seats at this unique event are sure to go quickly. Don't delay, register today by calling **+44 (0) 20 7878 6888**, by faxing your registration form to **+44 (0) 20 7878 6896** or by registering online at **www.C5-Online.com/Obstetrics**.

PLUS! Add value to your attendance by registering for the pre-conference workshop:

Handling an Obstetric Malpractice Case from Start to Finish

This hands-on workshop will provide you with the tools you need to get the best result for your client in these difficult cases.

WHO SHOULD ATTEND?

- Clinical / Medical Negligence Lawyers
- Obstetricians and Gynaecologists
- Hospital Risk Managers / Clinical Risk Managers
- Senior Midwives and Obstetric Nurses
- Barristers

EXHIBITOR



ILS is a leading provider of Case Management. Employing over 45 Case Managers nationwide, ILS works with children with all types of disabilities including cerebral palsy and acquired brain injury. ILS Case Managers, who are paediatric Occupational Therapists, nurses & physiotherapists, facilitate and manage comprehensive packages of care.

“I gained numerous take home points to feedback to the Trust” **Karen Kokoska, WAHNSHST** (Obstetric Negligence Conference, 2005)

SPEAKERS



Michael Powers QC, Barrister
ADR Chambers



Martin Spencer QC, Barrister
Hailsham Chambers



Simon Readhead QC, Barrister
I Chancery Lane



Dr David Thomson, Barrister
I Chancery Lane

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1:30pm – 5:00pm (Registration from 1:00pm)

Pre-Conference Master Class:**Successfully Handling an Obstetric Malpractice Case from Start to Finish****Stephanie Code**, Partner
Charles Russell LLP**Stephanie Prior**, Solicitor
Charles Russell LLP

Obstetric Malpractice cases are extremely complicated to litigate. You not only need to master all the litigation techniques specific to a medical malpractice case, but also to effectively examine and cross-examine the expert witnesses retained in the case, you must become somewhat of a medical expert yourself. In addition to this, you need to have all the tools possible at your disposal to assess what the case is really worth.

This hands-on workshop will provide you with the tools you need to get the best result for your client in these difficult cases. Lead by two seasoned attorneys, this interactive session will include topics on:

- Evaluating the case at the beginning: strengths and weaknesses
- Investigating the facts concerning liability, causation and damages: what is relevant?
- Identifying the issues to retain the appropriate expert witness
- Pre-trial discovery of the case
- What medical records are you entitled to view?
- What you should be specifically looking for when inspecting records
- Ensuring your client is prepared for trial
- Overcoming the challenges of representing the institutional client
- Final arguments
- Making the case for or against damages
 - what type of damages and how much?
 - retaining and challenging the damages expert
 - what will the long term medical care really cost?

8:15 Registration and Coffee ☕**9:00 Chair's Introductory Remarks and Overview****Michael Powers QC**, Barrister
ADR Chambers**9:15 The Third Degree: Identifying, Preventing and Minimising Adverse Outcomes****Simon Readhead QC**, Barrister
1 Chancery Lane**Carolynne Vaizey**,
Consultant Surgeon and Chairman of Surgery
St Mark's Hospital, London

Carolynne is also an Honorary Senior Lecturer at Imperial College London, Director of the Sir Alan Parks Physiology Unit, and Lead Surgeon at the Lennard Jones Intestinal Failure Unit

Mr Abdul H Sultan MD FRCOG,
Consultant Obstetrician and Gynaecologist
Mayday University Hospital

- Mismanagement of repairs as a source of obstetric litigation
- The importance of involving the right professionals at an early stage to evaluate and repair injuries
- Should episiotomies be routine or are there specific indications?
- Minimising client embarrassment
 - how to brief your expert and yourself
- What actually happens
 - effects of incontinence on patients
 - exploring the occult sphincter injury: fact or fiction?
 - considering the importance of symptoms vs. injury severity
 - understanding the value of anorectal physiology and endoanal ultrasounds in treatment
- Exploding the myths surrounding the true outcomes of primary and secondary sphincter repair
- Risk management
 - who does what and when?
 - assessing whether the training of doctors and midwives is adequate
 - circumstances under which a claim might arise
- Understanding the National Institute for Clinical Excellence (NICE) and the Cochrane guidelines: how do these affect everyday practice?
- Damages update: value of claims made following an obstetric procedure where adverse outcomes should have been prevented

10:30 Morning Refreshments**10:50 The Value of Pre-Natal Screening and Diagnosis: Recent Developments, Critical Concerns and Practical Issues****Dr David Howe**, Consultant in Fetomaternal Medicine
Princess Anne Hospital, Southampton**Tim Wright**, Health Law Specialist
Penningtons

- Understanding the effects of government imposed standards of testing on pregnant women
- Instructing experts in pre-natal screening cases
- Particular problems in showing breach of duty and causation in screening cases
- How loss of chance and terminations can lead to litigation
- Exploring new developments in antenatal diagnosis
- Demystifying ultrasounds
 - indications
 - timing frequency
 - false positives and false negatives
- Assessing the real implications of genetic counselling
- Considering pre-existing factors when ordering testing
- Assessing the limitations of pre-natal screening
- Evaluating ethical and practical issues

11:50 Foetal Asphyxia and Brain Damage: Diagnosis and Treatment

Dr David Thomson, Barrister
1 Chancery Lane

Dr David Howe, Consultant in Fetomaternal Medicine
Princess Anne Hospital, Southampton

- Implication of a significant metabolic acidosis in asphyxia
- Predicting foetal asphyxia during labour: what are the signs?
- The foetal response to asphyxia
- Assessing newborns for signs that foetal asphyxia has occurred
- Newborn encephalopathy and multi-organ system injuries
- Patterns of asphyxia: how does it usually evolve and what are some common outcomes?
- Linking the signs of asphyxia to the resulting injuries
- What conclusions can be based on timing of the event?
- 'Watershed' issues
- Litigation risks for the obstetrician and neonatologist

12:50 Networking Lunch

2:00 Causation, Material Contribution and Liability: How to Navigate Your Way Through the Minefield

Michael Powers QC, Barrister
ADR Chambers

- When association becomes causation: can obstetric error be merely associated with disaster rather than causative of it?
- Does the finding of a causal relationship at a generic level negate the need for a finding of a causal relationship at an individual level?
- The importance of the quality of CTG scans and other screening evidence in proving cause
- The search for cause: evidential difficulties in cerebral palsy claims
- When does a non-negligent act or omission of a doctor that results in the death of a neonate justify a negligence claim?
- The significance of antepartum normality as opposed to prepartum normality in successfully proving negligence on the part of an obstetrician
- Understanding how birth asphyxia broadens the issues of causation

3:00 Common Negligent Errors in Obstetric Cases: A Claimant Lawyer's Perspective

Peter McNeil, Partner
Field Fisher Waterhouse LLP

- Misreading of antenatal ultrasounds and foetal abnormalities
- Effectively diagnosing and treating co-existing illnesses
- Misinterpretation of CTGs
- The improper use of Syntocinon during labour
- The use of foetal blood samples during labour
- Awareness of infections in the mother
- Delay in delivery and subsequent difficulties
 - use of forceps
 - ventouse assisted delivery
 - shoulder dystocia
 - caesarean sections
 - resuscitation
- The implications of hypoglycaemia post-partum

4:00 Experts: Evaluating Their Role and Using Them Effectively

Dr Peter Ellis, Barrister
7 Bedford Row

- Exploring the legal framework in which experts operate
 - CPR Rule 35.12
 - expert witness protocol
 - case law
- Crediting and discrediting experts
- Using an expert's testimony against him or her
- Understanding agendas, timing and format

- Evaluating the role of the expert
- Examining the Queen's Bench Masters' model directions
- Considering failure to agree agendas
- Assessing the potential benefits and pitfalls of expert meetings
- Knowing when lawyers should attend expert meetings
- Assessing the role of recordings and neutral chairpersons
- Understanding joint statements and change of mind
- Evaluating the future of experts' discussions

4:45 Chair's Closing Remarks

5:00 Conference Adjourns

FRIDAY 23 MAY 2008

8:30 Coffee

9:00 Chair's Introductory Remarks and Overview

Martin Spencer QC, Barrister
Hailsham Chambers

9:10 What's New in Obstetric Negligence?

Elizabeth-Anne Gumbel QC, Barrister
One Crown Office Row

- Current problems in wrongful birth and cost of upbringing claims
- The role of hospital protocols and RCOG guidelines
- The dangers in using Syntocinon
 - *Evans v Birmingham & Black Country Strategic Health Authority (2007)*
- Delay in delivery and ensuing complications
 - *Fahima Khalid (a child by her mother and litigation friend, Baira Khalid) v Barnet & Chase Farm Hospital NHS Trust (2007)*
- Calculation of life expectation in assessment of damages
 - *Jennifer Arden v Anthony Malcom (2007)*, *Katie Louise Lewis (a child by her mother and litigation friend, Sandra Lewis) v Royal Shrewsbury Hospital NHS Trust (2007)*

10:00 Assessing Quantum: What are the Courts Awarding and Why?

Elizabeth-Anne Gumbel QC, Barrister
One Crown Office Row

Henry Witcomb, Barrister
One Crown Office Row

- Taking account of local authority and NHS provisions
 - the problems of double recovery
 - indemnities
 - future uncertainty
- Cost of care: different types of care packages
 - the need for multiple carers
 - the need for waking night care/24 hour care
- Considering the costs of hydrotherapy: when is it justified in a damages claim and should a home pool be presumed necessary?
- Exploring interim payments
 - the principles and the Court's approach
 - advantages and disadvantages for the claimant
- Evaluating the Court's power to impose periodical payments
 - the current position
 - advantages and disadvantages for the claimant

11:00 Morning Refreshments

11:20 Trial of Operative Delivery and Trial of Forceps: What Can Go Wrong?

Martin Spencer QC, Barrister
Hailsham Chambers

Roger V Clements, FRCOG

Retired Obstetrician and Gynaecologist,

Practising as a Medico-Legal Expert from Harley Street

- How negligent forceps deliveries have been treated by the Courts in recent years
- Understanding the rationale of “trial of forceps” and the cost of failed forceps
- Evaluating the reasons for failure of forceps deliveries
- Examining techniques for “trial of operative delivery”
- Negligent failure to carry out trial of forceps
 - *Kingsberry v Greater Manchester Strategic Health Authority*
- Negligent delay in converting to caesarean section
 - *Purver v Winchester & Eastleigh Healthcare NHS Trust*

12:20 **Networking Lunch**

2:00 **Shoulder Dystocia and Brachial-Plexus Injury: Exploring the Connection**

Roger V Clements, FRCOG,

Retired Obstetrician and Gynaecologist,

Practising as a Medico-Legal Expert from Harley Street

Jane Tracy Forster, Barrister Hailsham Chambers

Traditionally it has been taught that Obstetric Brachial Plexus Injury (OBPI) is caused by Shoulder Dystocia. Over the last two decades there has been a flood of literature, mostly from the United States purporting to show that a significant proportion of OBPI occurs independently of Shoulder Dystocia. This “evidence” has been accepted unquestioningly by some US Courts, much to the joy of US insurance companies. In this session, Mr Clements will explain why the connection between Shoulder Dystocia and OBPI is often overlooked, why the US evidence is based on a “fallacy” and why most (but not all) incidences of OBPI are down to the accoucheur.

Shoulder Dystocia

- Exploring the evolution of current practice and its relevance to breach of duty
- Discussing the importance of training in diagnosing and treating the condition
- Highlighting the importance of logistical concerns
 - record keeping
 - accurate description of manoeuvres undertaken
 - personnel involved

Brachial-Plexus Injury

- Understanding controversies in causation
- Considering the alternatives
 - if not traction then what?
 - what are the other possible mechanisms?
- Examining ‘maternal propulsion’ theory
- Exploring the posterior shoulder injury: theories of causation
- Analysing breech delivery and Caesarean section injuries

3:00 **Afternoon Refreshments**

3:15 **Caesarean Sections on Demand: Current Controversies**

Edward Shaxted,

Consultant Obstetrician and Gynaecologist

Northampton General Hospital

Jane Tracy Forster, Barrister Hailsham Chambers

Fraser McLeod, Consultant Obstetrician and Gynaecologist, North Bristol NHS Trust

- The rising caesarean section rate: a national and international perspective
- The legal pitfalls when dealing with caesarean sections “on demand”
- The risks and benefits of caesarean section
 - how big are the risks for future pregnancies?
 - how big a risk is uterine rupture in subsequent pregnancies?

- comparing the risks of caesarean section on demand with conventional vaginal delivery
- What do surveys tell us about what women want?
- Funding and costs
- Issues of consent
 - who knows best?
 - the role of VBAC consent forms
 - informed consent in the role of VBAC consent forms
- Medical liability issues of doing caesarean section on demand
- VBAC
 - is it worth it?
 - first time as opposed to abandoning an attempted VBAC
 - the standard of care
- Current protocols for VBAC
- What strategies might reduce the caesarean section rate?
- Ethical issues: whose choice is it anyway?

4:00 **Cerebral Palsy Claims: How to Successfully Manage a Claim**

David Wilby QC, Barrister Old Square Chambers

Dr Maggie Blott, Consultant Obstetrician and Gynaecologist Kings College Hospital, London

Cerebral palsy caused by obstetric negligence usually occurs as a consequence of either a period of chronic/partial hypoxic ischaemia or acute/profound hypoxic ischaemia in the perinatal period. Establishing negligence relies on showing that the obstetric/midwifery care should have identified the features suggestive of deterioration in foetal condition towards chronic or partial hypoxic ischaemia and taken steps to avoid it.

The areas that will be covered in this session include the following:

- Identification of any features of the actual or previous pregnancies identifying specific risks
- If specific risks, was the admission and treatment regime consistent with those risks?
- Critical consideration of CTG monitoring to identify actual/potential deterioration in foetal wellbeing
- Consideration of whether induction of labour/the means of induction of labour were appropriate or contra-indicated and/or contributed to a deterioration in foetal wellbeing
- The standard of overall consideration and monitoring
- When and why deterioration in foetal wellbeing should have been identified
- What action should have been taken to ameliorate the deterioration in the foetal condition/avoid the asphyxial insult
- Assessing whether there should have been an assisted delivery or delivery by Caesarean section and, if so, when, so as to avoid permanent brain damage

4:45 **Risk Management Issues in Patient Care**

Grahame Aldous QC, Barrister 9 Gough Square

Edward Shaxted, Consultant Obstetrician and Gynaecologist Northampton General Hospital

Majid Hassan, Partner Capsticks

- Common claims and how to avoid them
- Interface and team issues midwife/obstetrician
- Standards of care/policies/protocols and guidelines
- Auditing: a true reflection of practice?
- Ante-natal care, system errors and admin errors
- Obtaining consent in an emergency situation
 - the legal and medical perspective
- Acceptable complication or negligent event?
- Midwife only units: pros and cons and how to avoid the risks
- Interface between independent midwives and NHS midwives
- How to review and learn from adverse events
- Continuity of care

5:30 **Chair’s Closing Remarks**

5:40 **Conference Ends**

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CONFERENCE

Date: 22 – 23 May 2008

Time: 9am (Registration and distribution of documentation from 8:15am)

Venue: Jurys Great Russell Street Hotel

Address: 16 – 22 Great Russell Street, London, WC1B 3NN

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MASTER CLASS

Date: 21 May 2008

Time: 1:30pm – 5:00pm

(Registration and distribution of documentation from 1:00pm)

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DOCUMENTATION

If you are not able to attend, you can buy copies of the presentations provided to delegates on the day of the event. Please send us this completed booking form together with payment of £350 per copy requested. For further information please call +44 (0) 207 878 6888 or email enquiries@c5-online.com.

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