

19th Annual Advanced Forum on

# OBSTETRIC MALPRACTICE CLAIMS

 November 9, 2020 EST  
 Virtual Conference

## ■ Distinguished Co-Chairs:



**Daniel J. Huff**  
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## ■ Medical Insights:



**Michael G. Ross, MD MPH**  
*Distinguished Professor of Obstetrics  
and Gynecology and Public Health*  
**UCLA School of Medicine**



**Max Wiznitzer, MD**  
*Pediatric Neurology*  
**UH Cleveland Medical Center**

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*Assistant Vice President, Claims*  
**The Doctors Company**



**Mollie K. O'Brien, Esq.**  
*Vice President, Claims & Litigation*  
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## NEW for this year:

- **Focus Session** on Analyzing Claims Against L&D Nurses and Midwives in OB Cases
- **Case Study** on *Zubida Byrom, et al vs John Hopkins Bayview Medical Center Inc.*

 *This conference is one of the best-kept secrets in OB Malpractice continuing education! It sources the leaders in both medicine & law and provides both the plaintiff & defense perspective.*

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*Extremely high caliber of information, expertise and especially hearing from physicians who offer practical insight and experiences.*

**PARTNER – CHAIR HEALTH CARE GROUP, TUCKER ELLIS LLP**



# Obstetrics malpractice claims continue to be the most expensive within the medical malpractice arena.

In 2019, there were several multi-million-dollar verdicts alone.

As medical science in the field of obstetrics continues to make innovative discoveries, develop rapidly changing advances in medical technology, and provide increased access to new information, there are higher demands on standards of care – unfortunately leading to higher areas of risk, and subsequently, higher malpractice claims. It is crucial that all parties involved in the obstetric malpractice continuum – medical professionals, risk managers, insurance professionals, plaintiff and defense attorneys – stay current on these latest developments as well as claims impacting this area of practice.

During this one of a kind event, our unparalleled faculty of claims specialists, risk managers, medical experts – as well as an outstanding array of plaintiff and defense attorneys – will share their insights and provide practical guidance for addressing some of the most complex medical and litigation challenges of today, as well as the impact of COVID-19.

## ■ Highlights for this year, include sessions on:

- Exploring Obstetrical Catastrophes: Placental Abruption, Uterine Rupture and Breech Presentations
- An Anatomy of a Modern Malpractice Trial Considering Rising Verdicts
- Assessing Claims Against L&D Nurses and Midwives
- Addressing Risk Associated with Oxytocin and Cytotec in Labor Induction and Augmentation
- Damages Expert Selection and Preparation
- A Case Study of *Zubida Byrom, et al vs John Hopkins Bayview Medical Center Inc.*

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Partner  
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Shareholder  
**Eichen Crutchlow Zaslow, LLP**  
(Edison, NJ)

## Speakers



**Jack Beam**  
Managing Partner  
**Beam Legal Team L.L.C.**  
(Chicago, IL)



**Sean F.X. Dugan**  
Senior Partner  
**Martin Clearwater & Bell LLP**  
(New York, NY)



**Erick M. Elder**  
Professor of Economics  
**University of Arkansas**  
(Little Rock, AR)



**Molly L. Farrell**  
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Partner  
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& Offutt LLC** (Baltimore, MD)



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Partner  
**Bardsley, Benedict and  
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Senior Vice President  
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**Kevin J. Kuhn**  
Partner  
**Wheeler Trigg O'Donnell LLP**  
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Plaintiff's Trial Attorney  
**Lloyd Law Group, Ltd** (Chicago, IL)



**John Moore**  
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**Mollie K. O'Brien, Esq.**  
Vice President, Claims & Litigation  
**American Excess Insurance  
Exchange, RRG, Premier Insurance  
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(Mendham, N.J.)



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Shareholder  
**Galloway Luchese Everson &  
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Founding Partner  
**Post & Post, LLC** (Berwyn, PA)



**Jesse M. Reiter, J.D.**  
Owner and managing partner  
**Reiter & Walsh, P.C.**  
(Bloomfield Hills, MI)



**Michael G. Ross, MD MPH**  
Distinguished Professor of  
Obstetrics and Gynecology  
and Public Health  
**UCLA School of Medicine**  
(Los Angeles, CA)



**Robert Shavelle, PhD, FAACPDM**  
Technical Director  
**Life Expectancy Project**  
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**Aiju C. Thevatheril**  
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**Swanson Martin & Bell, LLP**  
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Shareholder  
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**Max Wiznitzer, MD**  
Pediatric Neurology  
**UH Cleveland Medical Center**  
(Cleveland, OH)



**Daryl L. Zaslow**  
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**Eichen Crutchlow Zaslow, LLP**  
(Edison, NJ)

## C5 GROUP'S VIRTUAL EVENTS

# Re-imagining the way we deliver conferences

As the current global situation continues to unfold, we understand that it may not be possible to attend our events in person.

At the same time, we also understand that collaboration is more vital than ever and for that, you can still rely on ACI to bring the industry together *but* in a different way. We are transforming quickly to ensure you can now connect virtually and continue to gain unparalleled access to market leading intelligence and to the facilitation of a global exchange of expertise.

Our new virtual events continue to be guided by our unifying philosophy: we believe that growth and success occurs when the power of people and the power of information come together. We may not be able to gather in person, but nothing stops connection and innovation.



**What you  
can expect  
at a virtual  
conference**



Immerse yourself in live presentations, panel discussions, specialized breakout sessions and networking opportunities.



Engage in meaningful dialogue with attendees and speakers in an interactive format.



Meet 1-on-1 with attendees you select and exchange contact information for lasting connections and true engagement.



Expand your network to a global audience.



Visit solution providers and learn about the latest technologies, services and products.



Eliminate the costs and stress of travel.



Reduce waste and carbon footprint through this environmentally friendly platform.

8:45 am Virtual Login

9:00 am

## Co-Chairs' Welcoming Remarks



**Daniel J. Huff**  
Partner  
**Huff, Powell & Bailey, LLC (Atlanta, GA)**



**Daryl L. Zaslow**  
Shareholder  
**Eichen Crutchlow Zaslow, LLP (Edison, NJ)**

9:15 am

## Obstetric Malpractice State of the Union 2020: A Conversation with Counsel, Doctors and Insurers



**Sean F.X. Dugan**  
Partner  
**Martin Clearwater & Bell LLP (New York, NY)**



**Molly L. Farrell**  
Client Advocate  
**Willis Towers Watson (San Francisco, CA)**



**Richard T. Henderson**  
Senior Vice President  
**TransRe (New York, NY)**



**Mollie K. O'Brien, Esq.**  
Vice President, Claims & Litigation  
**American Excess Insurance Exchange, RRG, Premier Insurance Management Services (PIMS) (Mendham, N.J.)**



**Michael G. Ross, MD MPH**  
Distinguished Professor of Obstetrics and Gynecology and Public Health  
**UCLA School of Medicine (Los Angeles, CA)**

- Exploring novel plaintiff theories and notable defense tactics in the last year
- Analyzing medical trends and developments that have been game changers in the field of obstetrics
- Breaking down top risk management factors and evaluating recent case patterns and settlements
- Understanding COVID and its impact on pregnancy
  - » Prevalence of the diseases in patients before and after pregnancy and the ethical and legal implications of this
  - » COVID and maternal and infant care
- Identifying COVID-19 litigation concerns from health care providers relative to obstetrics

10:30 am Morning Break

10:45 am

## Anatomy of an Obstetrics Malpractice Trial: Exploring New Litigation Techniques and Evidentiary Questions in Light of Rising Verdicts



**Thomas Geroulo**  
Partner  
**Bardsley, Benedict and Cholden, LLP (Scranton, PA)**



**John Moore**  
Assistant Vice President, Claims  
**The Doctors Company (Napa, CA)**



**Kurt D. Lloyd**  
Plaintiff's Trial Attorney  
**Lloyd Law Group, Ltd (Chicago, IL)**



**Joseph S. Picchi**  
Shareholder  
**Galloway, Lucchese, Everson & Picchi (Pleasant Hill, CA)**

- Understanding the changes to the trial process due to COVID-19 and identifying how to keep the civil system on track while the criminal system is on pause
  - » Identifying how the courts will address the backlog, challenges and how to have a successful virtual mediation
- Rethinking trial strategies and evidentiary proffers from both the plaintiff and defense side in view of rising obstetric malpractice verdicts
- Understanding when and if your case is ready for mediation and devising techniques for situations when settlement is not possible
- Evaluating the defensibility of your case and developing strategies based on a strengths and weaknesses evaluation
- Developing effective jury techniques for both defense and plaintiff counsel
  - » Understanding the science of jury selection relative to this high verdict's atmosphere
- Exploring the dynamic of case collaboration between both the plaintiffs and defendant
- Developing and testing different trial strategies
- Assessing the evidentiary value of new medical technology and techniques in view of evidentiary relevance
- Addressing challenges with audit trails and medical records
  - » Understanding how plaintiffs and defendants can use these obstacles to their advantage
- Learning how plaintiff and defense counsel can effectively communicate with hospitals and insurance representatives
- Examining approaches to witness preparation for hospital representatives and other medical personnel
- Analyzing the difference between punitive and nonpunitive components

12:00 pm

## Case Study on the Significance of *Zubida Byrom, et al vs John Hopkins Bayview Medical Center Inc*



**Keith D. Forman**  
Partner  
**Wais, Vogelstein, Forman & Offutt LLC (Baltimore, MD)**

This session will analyze specific details of the record-setting medical malpractice verdict that awarded a young mother over 200-million dollars after her daughter suffered a brain injury during birth at John Hopkins Bayview Medical Center.

12:45 Lunch Break

1:45 pm

## Addressing Risk Associated with Oxytocin and Cytotec in Labor Induction and Augmentation



**Jack Beam**  
Managing Partner  
**Beam Legal Team L.L.C. (Chicago, IL)**



**Aiju C. Thevatheril**  
Partner  
**Swanson Martin & Bell, LLP (Chicago, IL)**



**Geoffrey N. Fieger**  
Senior Partner  
**Fieger, Fieger, Kenney & Harrington P.C. (Southfield, MI)**

- Understanding why Oxytocin and Cytotec are used in the induction augmentation processes
  - » Benefits versus risks
- Exploring the potential mismanagement of these medications by doctors and by nurses
- Breaking down the standard of care and how it plays out in the court room
- Assessing dosage adjustment of these drugs based on fetal heart monitoring strip readings
- Identifying the liability of birth trauma litigation
- Analyzing the ACOG and SMFM guidelines relative to the use of these drugs
- Examining the results of studies about these drugs to determine whether they harm the baby
- Determining how the fetal heart tracings affect these doses
- How CCIE is affected by these doses





2:45 pm

## Analyzing Claims Against L&D Nurses and Midwives in OB Cases



**Benjamin A. Post**  
Founding Partner  
**Post & Post, LLC (Berwyn, PA)**



**Michael G. Ross, MD MPH**  
Distinguished Professor of Obstetrics and  
Gynecology and Public Health  
**UCLA School of Medicine (Los Angeles, CA)**



**Daryl L. Zaslow**  
Shareholder  
**Eichen Crutchlow Zaslow, LLP (Edison, NJ)**

The use of midwives and labor and delivery nurses continues to be a popular choice for expecting mothers, offering them a more personal and intimate delivery experience. However, there is an increase in claims against these professionals which this panel will explore.

- Understanding the role that midwives and L&D nurses play during the entire pregnancy and delivery process
- Examining collaborative agreements midwives and L&D nurses have with hospitals
- Analyzing corporate negligence theories with respect to midwives, L&D's and hospitals
- Determining the financial incentives plaintiffs' attorneys have when a case is built against an L&D nurse
- Exploring negligence regarding dosage and timing of administering medications to accelerate labor and delivery
- Evaluating insurance guidelines, supervision protocol and identifying liability
- Determining why hospitals may or may not be opting for these licensed professions
- Analyzing what the outcomes are in comparison to medical doctors OB's
- Identifying the autonomy that midwives have and if they work in conjunction with physicians
- Assessing cases where midwives have not been able to get in touch with an OB to assist them and how they handled the situation
- Understanding the role and readiness of midwives in non-routine, high risk pregnancies such as gestational diabetes; and whether a hospital on call arrangement should be altered in the face of these patients
- Determining what to do if midwives do not have ready access to pediatric help or emergent care, especially in remote or rural communities
- Identifying whether these professions are equipped for early management and resuscitation of a newborn baby in a timely fashion

3:45 pm Afternoon Break

4:00 pm

## Exploring Obstetrical Catastrophes: Placental Abruption, Uterine Rupture and Breech Presentations



**Daniel J. Huff**  
Partner  
**Huff, Powell & Bailey, LLC (Atlanta, GA)**



**Jesse M. Reiter, J.D.**  
Owner and Managing Partner  
**Reiter & Walsh, P.C. (Bloomfield Hills, MI)**



**Max Wiznitzer, MD**  
Pediatric Neurology  
**UH Cleveland Medical Center (Cleveland, OH)**

This session will take a deeper look at defining placental abruption, uterine rupture and breech presentation. We will examine why there is an uptick in these conditions and to the corollary related cases across the country.

- Exploring the differences between these obstetric injuries and the best practices for determining when an injury has occurred
- Reviewing recent medical literature and the outcome of these cases
- Analyzing protocols used for addressing these conditions and how to potentially prevent them
- Addressing the rise of these conditions across the country
  - » How states are managing and proceeding with these cases
- Determining how well labor teams are prepared and ascertaining if they act appropriately, emergently and quickly enough
- Analyzing new techniques and technology or lack thereof for delivery and the ability to:
  - » Forecast or monitor what could be an adverse development
  - » Address and treat these common medical or delivery complications
- Assessing exposure to greater liability
  - » Does the 30-minute rule matter

5:00 pm

## Damages Expert Selection and Preparation



**Erick M. Elder**  
Professor of Economics  
**University of Arkansas (Little Rock, AR)**



**Kevin J. Kuhn**  
Partner  
**Wheeler Trigg O'Donnell LLP (Denver, CO)**



**Robert Shavelle, PhD, FAACPDM**  
Technical Director  
**Life Expectancy Project (San Francisco, CA)**

### Moderator:



**Tammy L. Wade**  
Shareholder  
**Johnson & Bell, Ltd. (Chicago, IL)**

- Identifying best practices for selecting an expert damage's witness
- Determining the selection of your damages expert to meet the measure of damages for your case
- Assessing the course of expert testimony based on the perceptions of defense and plaintiffs' counsel
- Identifying what quality damages expert should have relative to your case
  - » Story-telling ability
  - » Relatability to the jury
  - » Effectively using mock trial techniques

6:00 pm **End of Conference Wrap Up – Q&A  
Conference Ends**



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## WHO YOU WILL MEET VIRTUALLY AND WHY THEY ATTEND:

- **Plaintiff and defense attorneys** who litigate medical malpractice cases attend in order to get a solid grounding on the latest medical issues upon which cases are based.
- **Insurance professionals** attend in order to obtain valuable insights and strategies for assessing professional negligence claims and to better understand litigation strategies and hospital risk management techniques.
- **Doctors, nurses and hospital risk/quality assurance managers** attend in order to benchmark their current practices and procedures and develop a deeper understanding of the current state of obstetric malpractice litigation.

About us:



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