

American Conference Institute's

6th Annual Advanced National Forum on
Preventing, Managing & Defending Claims of

OBSTETRIC MALPRACTICE

June 19 & 20, 2007 • Park Hyatt • Philadelphia, PA

Get specialized, practical information from leading medical and legal experts on:

- ▶ Predicting fetal asphyxia during labor: what are the signs?
- ▶ Neonatal infection, metabolic disorders and subsequent injury: assessing causation and the standard of care
- ▶ Premature delivery: identifying, preventing and minimizing adverse outcomes
- ▶ The appropriate standard of care for fetal asphyxia, shoulder dystocia, and other emergencies
- ▶ Screening for fetal anomalies and genetic disorders — and communicating the results effectively
- ▶ Placental pathology: making better use of an under-used tool
- ▶ Using neuroimaging to determine the timing and origin of the injury
- ▶ Ensuring patient safety: looking back at what should have been done and taking proactive measures going forward

Obstetric malpractice cases turn on what the medical experts have to say — get the tools you need to understand the medicine behind the claims!!

Post Conference Interactive Workshop – Thursday, June 21, 2007

The Attorney's Guide to Handling an Obstetric Malpractice Case from Start to Finish: Litigation Strategies, Damages and More

CLE
CREDITS

Hear from top plaintiff and defense attorneys, physicians and risk managers, including:

Harvey J. Kliman, MD, Ph.D
Reproductive and Placental Research Unit
Department of Obstetrics and Gynecology
YALE UNIVERSITY SCHOOL OF MEDICINE

Dr. Olaf Dammann
Director of Clinical Research in Newborn Medicine
TUFTS-NEW ENGLAND MEDICAL CENTER
Research Professor, Pediatrics
TUFTS UNIVERSITY SCHOOL OF MEDICINE

Dr. Arnold Cohen
Chair, Department of Obstetrics and Gynecology
ALBERT EINSTEIN MEDICAL CENTER

Robert A. Zimmerman, MD
Chief, Neuroradiology Division/MRI
THE CHILDREN'S HOSPITAL OF PHILADELPHIA

Christopher Bernard
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Ralph Valitutti
KITCH DRUTCHAS WAGNER VALITUTTI & SHERBROOK

Andrew S. Kaufman
KAUFMAN, BORGEEST & RYAN LLP

John Elliott, MD
Maternal Medical Director
Division of Maternal and Fetal Medicine
BANNER GOOD SAMARITAN HOSPITAL

Laura Lamar, RN, JD
Risk Manager
THE JOHN H. STROGER JR. HOSPITAL OF COOK COUNTY

Dr. Nancy Roberts
Chair, Department of Obstetrics and Gynecology
MAIN LINE HEALTH SERVICES

Luke Pittoni
HEIDELL, PITTONI, MURPHY & BACH

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YOU'VE SEEN THE ALARMING STATISTICS...

- ▶ 92% of all OB-GYN physicians in practice for 10 years have been sued
- ▶ Over the past ten years, medical liability premiums have climbed from an average of 40% of salaries to a point where they have completely outstripped many salaries
- ▶ The top verdicts for 2006 are in — and include these astronomical damage awards for obstetric malpractice cases: \$47,365,732... \$31,575,000... \$29,300,000... \$20,000,000.

YOU KNOW ABOUT THE RESULTS...

OB/GYNs feel that high malpractice insurance rates and lawyers are driving them out of business. Hospitals are closing labor floors. Insurers have backed away from insuring obstetricians and obstetrical practices, or are charging skyrocketing premiums. **In this increasingly difficult environment, it's more important than ever that you have up-to-the-minute legal and medical information to help you minimize risk and defend obstetric malpractice claims.**

How Will Attending ACI's Conference on Preventing, Managing and Defending Obstetric Malpractice Claims Conference Help You Meet These Challenges?

- ▶ The conference brings together doctors, hospital risk managers, medical liability insurers and lawyers for a unique, information-packed medical-legal event, so you get the full picture, instead of bits and pieces
- ▶ We focus on BOTH the prevention AND defense aspects of these claims — so not only do you get tools to help you defend the claim, you get practical, best practices advice for minimizing your risk going forward
- ▶ We'll extensively cover the most pressing issues you face because we've researched this conference with all the key stakeholders — medical professionals, lawyers and insurers — to bring you the most up-to-date, practical, helpful information possible

Whether you are a medical professional, medical liability insurer, or lawyer, you'll come away with valuable information that will enable you to minimize risk going forward and better manage and defend these complex claims. Spaces will go quickly — so register today! We look forward to seeing you in Philadelphia in June.

A MUST-ATTEND EVENT FOR:

- Hospital Risk Managers
- OB-GYN Nurses and Nursing Managers
- OB/GYNs
- Medical Liability Insurers
 - Claims Managers
 - Risk Managers
 - Adjusters
- Medical Malpractice Attorneys
- Nurse Attorneys
- Paralegals

AGENDA-AT-A-GLANCE

- ✓ Neonatal Infection, Metabolic Disorders and Subsequent Injury: Assessing Causation and the Standard of Care
- ✓ Fetal Asphyxia: Appropriate Diagnosis and Treatment
- ✓ Placental Pathology: Making Better Use of an Under-Used Tool
- ✓ Using Neuroimaging to Determine the Timing and Origin of the Injury
- ✓ Prenatal Screening and Diagnosis: Critical Concerns
- ✓ Fetal Monitoring and Surveillance: Ensuring the Correct Interpretation and Response
- ✓ Premature Delivery: Identifying, Preventing and Minimizing Adverse Outcomes
- ✓ Shoulder Dystocia: Prediction and Prevention
- ✓ Ensuring Patient Safety: Looking Back at What Should Have Been Done — and Taking Proactive Measures Going Forward
- ✓ Using Experts Effectively — And Ethically — To Get the Right Result

TUESDAY, JUNE 19, 2007

7:30 Registration Opens and Continental Breakfast Served 

8:30 Co-Chair's Opening Remarks



Andrew S. Kaufman
KAUFMAN, BORGEEST & RYAN LLP
(New York, NY)

Andrew Kaufman represents health care providers in virtually all medical specialty fields as well as many of the most prestigious hospitals in the New York metropolitan area. Over the past twenty-five years, Mr. Kaufman has tried more than one hundred cases to verdict, including numerous cases of multimillion dollar exposure. He is one of the national coordinating counsel for Birth Trauma Litigation for a major insurance carrier. He is past president the New York State Medical Malpractice Defense Bar.



Luke Pittoni
HEIDELL, PITTONI, MURPHY & BACH
(New York, NY)

Over the past 35 years, Luke Pittoni has tried over 100 cases to verdict with a significant number of these being brain damaged baby cases. He is the founder and former President of the New York State Medical Defense Bar Association, is the former President of the New York City Chapter of the American Board of Trial Advocates (ABOTA) and a Diplomate of the American Board of Professional Liability Attorneys. He is listed in The Best Lawyers in America and Who's Who in American Law.

8:45 Neonatal Infection, Metabolic Disorders and Subsequent Injury: Assessing Causation and the Standard of Care



Dr. Olaf Dammann
Director of Clinical Research in Newborn Medicine
TUFTS-NEW ENGLAND MEDICAL CENTER
Wilhelm-Hirte Professor of Perinatal
Infectious Disease Epidemiology
HANOVER MEDICAL SCHOOL (Hanover, Germany)
Research Professor, Pediatrics
TUFTS UNIVERSITY SCHOOL OF MEDICINE
(Boston, MA)

Dr. Dammann's major interest is in inflammatory brain damage in pre-term infants. He currently serves on the editorial boards of the pediatric scientific journals "Early Human Development", "Neonatology", and "Acta Paediatrica". He has published more than 100 papers in his areas of expertise.



Ralph Valitutti
KITCH DRUTCHAS WAGNER VALITUTTI & SHERBROOK
(Detroit, MI)

Ralph Valitutti co-heads the Kitch firm's birth trauma practice and serves as national counsel for insurers and major health systems in birth trauma cases in almost every state throughout the country. In more than three decades with the firm, he has served as first chair in more than 60 trials which have gone to verdicts, most of them in favor of his clients.

- Role of cytokines in the development of long-term neurological defects
- Ascertaining if cytokines were created by hypoxic/ischemic injury or infection to determine correct treatment
- Bacterial v. viral organisms: what could have been done differently?
- Cool-cap therapy
 - the new standard of care?
 - when is this treatment indicated?
- Detecting signs or symptoms of infection prior to delivery: what is the standard of care?
 - risk factors: genetic, metabolic
- Intrauterine stroke: understanding the causes, effects and outcomes
- Chorioamnionitis: appropriate diagnosis and treatment
- Kernicterus: are shorter hospital stays making it a growing trend?

10:30 Coffee Break 

10:45 Fetal Asphyxia: Appropriate Diagnosis and Treatment



Dr. David A. Clark
Professor and Martha Lepow Chair of Pediatrics
Director of Children's Hospital
ALBANY MEDICAL COLLEGE
(Albany, NY)

Dr. Clark has been a neonatologist for 30 years. He is board certified by the National Board of Medical Examiners and the American Board of Pediatrics, among others. He is a fellow of the American Academy of Pediatrics and a member of the Society for Pediatric Research. He is a reviewer for a number of prominent peer-reviewed perinatology and pediatrics journals. He has been on the Best Doctors in America List for the past four years.

- Implication of a significant metabolic acidosis in asphyxia
- Predicting fetal asphyxia during labor: what are the signs?
- The fetal response to asphyxia
- Assessing newborns for signs that fetal 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?

12:15 Networking Luncheon for Delegates and Speakers 

1:30 Placental Pathology: Making Better Use of an Under-Used Tool



Dr. Harvey J. Kliman

Reproductive and Placental Research Unit
Department of Obstetrics and Gynecology
YALE UNIVERSITY SCHOOL OF MEDICINE
(New Haven, CT)

Harvey Kliman has over twenty years of anatomic pathology training with particular emphasis in placental pathology, electron microscopy, immunohistochemistry, and endometrial pathology. He specializes in placental and infertility research, and clinical testing and consultations for pregnancy complications and losses and infertility. In addition to an MD, he has a PhD in cellular biochemistry.

James Bostwick

BOSTWICK & ASSOCIATES
(San Francisco, CA)

James Bostwick has specialized in medical malpractice and birth injury cases for 38 years. He is a member of the American Board of Trial Attorneys, certified by the American Board of Professional Liability Attorneys, listed in Best Lawyers in America since 1983, listed in the Super Lawyers top 100, and featured in the California State Bar Journal as one of the top professional liability (legal and medical) lawyers in the state. He regularly handles cases in several different states and has set several national, state and local records for jury verdicts and settlements on behalf of his clients.

Placental pathology is only ordered in about 35% of cases where it's indicated. Yet, it's a terrific tool for assessing what events, at what stage, led to any injuries sustained by the fetus. Get comprehensive information on how this diagnostic tool is used, plus information on how it could be better used as a defense tool in obstetric malpractice cases.

- Clinical examples of ways in which the placenta can reveal the cause of many cases of poor pregnancy outcome
- Consequences of intrauterine infection, decreased uteroplacental blood flow, drug use and genetic defects on the placenta and fetus
- Understanding the timing of how the placenta responds to a poor intrauterine environment
- Criteria for deciding whether to preserve the placenta for future reference
- Determining if placental pathology was indicated but not used

2:45 Afternoon Refreshment Break

3:00 Using Neuroimaging to Determine the Timing and Origin of the Injury



Dr. Robert A. Zimmerman

Chief, Neuroradiology Division/MRI
THE CHILDREN'S HOSPITAL OF PHILADELPHIA
(Philadelphia, PA)

Dr. Zimmerman has authored publications on head trauma, MR features of hemorrhage, and CNS inflammatory disease. He has co-authored over 300 peer-reviewed publications, and 80

invited papers/book chapters. He is a member of the editorial board of the American Journal of Neuroradiology and is a manuscript reviewer for five additional journals including the New England Journal of Medicine.

- Ultrasound, CT scan and MRI: best uses and what they can show
- How much more revealing is 3T imaging?
- Reading the signs of traumatic brain injury: what to look for
- Cranial imaging studies of newborn asphyxia
- In what circumstances can neuro-imaging exclude birth asphyxia as the cause of a later identified neurological deficit such as CP?

4:00 Prenatal Screening and Diagnosis: Critical Concerns

Medical Expert TBD

- New developments in antenatal diagnosis and non-invasive screening
- What are the implications of ACOG's new standard for Down's syndrome screening for all pregnant women?
- Ultrasound
 - indications, timing, frequency
 - false positives and false negatives: what are the implications?
- Genetic counseling: what's required?
- Effectively using screening based on specialized factors such as ethnicity and prior exposure
- Communicating test results to patients appropriately

5:00 Q & A Wrap-Up and End of Day One

WEDNESDAY, JUNE 20, 2007

8:00 Continental Breakfast Served

8:30 Chair's Opening Remarks

8:45 Fetal Monitoring and Surveillance: Ensuring the Correct Interpretation and Response



Dr. John Elliott

Maternal Medical Director
Division of Maternal & Fetal Medicine
BANNER GOOD SAMARITAN HOSPITAL
Clinical Professor of Obstetrics and Gynecology
UNIVERSITY OF ARIZONA
(Phoenix, AZ)

John Elliott has served on the Board of Directors for the Society of Maternal-Fetal Medicine and has presented 63 abstracts at peer-review meetings. He has authored 20 book chapters and over 95 articles on high-risk obstetrical problems. His interests include fetal monitoring, multiple gestation, prematurity prevention and infectious disease.

OBSTETRIC MALPRACTICE



Christopher Bernard
KOSKOFF KOSKOFF & BIEDER PC
(Hartford, CT)

Christopher Bernard has been involved in dozens of multi-million dollar settlements and has won several jury verdicts in excess of \$1 million on behalf of seriously injured clients. He represented a Farmington Valley family in an obstetrics malpractice case against Hartford Hospital, winning the largest jury verdict in a medical malpractice case in Connecticut history: \$36.5 million. He is listed in The Best Lawyers in America and is a member of the Birth Trauma Litigation Group of the Association of Trial Lawyers of America. He is also past president of the Connecticut Trial Lawyers Association.

Moderator and Panelist:



Andrew S. Kaufman
KAUFMAN, BORGEEST & RYAN LLP
(New York, NY)

- Understanding the underlying principles of EFM
- Difficulties in detecting the degree and extent of fetal hypoxia with EFM
- Resolving communications problems that arise when using a FHT monitor
- The abnormal strip: relating it to other causes
- Non-reassuring EFM patterns: how well can they predict later outcomes?
- Supporting the decision to move to a c-section based on strip interpretation
- Understanding the national standards for interpretation of EFM
- What is the efficacy of the current technologies employed in antepartum fetal health surveillance?
- Strategies for ensuring the safe use of fetal health surveillance mechanisms
- Role of various providers along the chain of command
- Preventing confusion between maternal and fetal heart rate

10:00 Coffee Break ☕

10:15 Premature Delivery: Identifying, Preventing and Minimizing Adverse Outcomes



Dr. Nancy Roberts
Chair, Department of Obstetrics and Gynecology
MAIN LINE HEALTH SERVICES
Assistant Professor, Department
of Obstetrics and Gynecology
JEFFERSON MEDICAL COLLEGE
(Philadelphia, PA)

Dr. Roberts earned her medical degree from Jefferson Medical College, completed her residency at Thomas Jefferson University Hospital and her fellowship in Maternal-Fetal Medicine at Pennsylvania Hospital. Dr. Roberts is Board certified in Obstetrics and Gynecology and Maternal-Fetal Medicine. She has been listed as a "Top Doc" by Philadelphia Magazine nine times.

She has co-authored over 30 publications relating to obstetrics. For the past 10 years, she has served as the System Chair of Main Line Health's Department of Obstetrics and Gynecology.



Joseph A. Farchione
SUTTER, O'CONNELL AND FARCHIONE
(Cleveland, OH)

Joe Farchione has focused his legal career on the defense of medical malpractice lawsuits and in particular, birth injury cases. He has a well deserved reputation as one of the premier trial attorneys in catastrophic birth-related injury cases in the United States. His practice has led him to multiple jurisdictions where primary and excess carriers as well as self-insured hospitals have asked him to step in, sometimes at the last minute, to defend their interests.

Premature deliveries have increased 30% in the past two decades. Premature labor occurs in 12% of all pregnancies. Plaintiffs often allege that more could have been done to bring the baby to full term — and that the pre-term delivery was improperly managed and led to alleged injury. In this session, the speakers will take an intensive look at both these issues — plus give you comprehensive information on assessing and managing the risk factors that often lead to premature delivery.

- Understanding the maternal and fetal conditions that tend to lead to pre-term delivery
- Identifying and managing the risk factors for pre-term delivery: preeclampsia, diabetes and pre-term labor
- Fetal risk factors at 28-32 weeks v. 32-36 weeks
- Use of steroids, in singleton and multi-fetal pregnancies
- Magnesium sulfate: indications and contraindications
- Off-label use of tocolytics: what are the implications?
- Contraindications to using tocolytics to delay onset of labor
- The causal link — what complications can be directly attributed to premature delivery and not to other causes?
- Tips for hospitals and doctors to prevent/reduce liability

11:30 Shoulder Dystocia: Prediction and Prevention

Dr. Robert Gherman
Director of Maternal/Fetal Medicine
PRINCE GEORGE'S HOSPITAL CENTER
(Cheverly, MD)

Dr. Gherman has written and lectured extensively on shoulder dystocia and brachial plexus palsy, including all of the many different facets of this obstetric emergency and its complications. His other main areas of interest include medical and surgical complications of pregnancy.



Luke Pittoni
HEIDELL, PITTONI, MURPHY & BACH
(New York, NY)

Shoulder dystocia, though infrequent, is potentially devastating when it occurs — and is a significant source of obstetric malpractice claims. In this valuable session, you'll get comprehensive information on predicting and managing this condition, an understanding of the complications shoulder dystocia does — and doesn't — cause, and practical advice for defending these difficult cases.

Preventing, Managing and Defending Claims of

- Understanding the key risk factors for dystocia
 - “once a dystocia, always a c-section”: recurrence risks
 - intrapartum risk factors
 - debunking erroneous assumptions about the condition
- How predictable is shoulder dystocia?
- Determining how and when the dystocia arose to assess what could have been done differently
- Practical strategies and maneuvers for dealing with dystocia in the delivery room
 - employing maneuvers prophylactically to decrease risk
 - what maneuvers work best and what are their limitations/complications
 - downward traction
- Managing the maternal complications
- The relationship between shoulder dystocia and
 - brachial plexus injury/palsy
 - umbilical artery acidosis
 - brain injury
- Worst case scenario: dealing with the fatal shoulder dystocia
- Questions to ask the expert witness in the shoulder dystocia case
- Common plaintiff allegations concerning shoulder dystocia
- What factors make a shoulder dystocia case indefensible?

12:45 Networking Luncheon for Delegates and Speakers

1:45 Ensuring Patient Safety: Looking Back at What Should Have Been Done — and Taking Proactive Measures Going Forward



Dr. Nancy Roberts

Chair, Department of Obstetrics and Gynecology
MAIN LINE HEALTH SERVICES
(Philadelphia, PA)

Laura Lamar, RN, JD

Risk Manager
THE JOHN H. STROGER JR. HOSPITAL OF COOK COUNTY
(Chicago, IL)

Laura Lamar is a registered nurse and attorney who has been Risk Manager with John H. Stroger Hospital (formerly Cook County Hospital) for ten years (the setting for the TV show “ER” is based on the hospital’s Trauma Unit). She works extensively with staff to make the hospital a safer place — including providing training on preventing medication errors, appropriate documentation, and legally compliant policies and procedures.

Moderator:



Joseph Picchi

GALLOWAY, LUCCHESI, EVERSON AND PICCHI
(Walnut Creek, CA)

Joe Picchi specializes in medical malpractice defense, legal malpractice defense, hospital liability defense, Medical Board and hospital credentialing matters, and products liability defense. He has been a member of the firm since 1991.

- Developing a common system of charting for better communication and patient safety
- Guidelines for late entries: how to make them and what to include

- What should be charted and by whom?
 - in a standard operative vaginal delivery
 - in an emergency situation
- Allocating responsibilities among the various players on the perinatal delivery team
 - helping nurses reduce risk through clinical practice, guidelines, and policies
 - the legal responsibility of the resident
- Implementing “safety bundles” and safety “walk rounds”
- Using drills as a preventative measure: strategies for success
- Communication among providers: closing the loop
- Effective use of hospital review and peer review committees
- Reporting — and learning from — bad outcomes to prevent reoccurrence

3:15 Afternoon Refreshment Break

3:30 Using Experts Effectively — And Ethically — To Get the Right Result



Dr. Arnold Cohen

Chair, Department of Obstetrics and Gynecology
ALBERT EINSTEIN MEDICAL CENTER
(Philadelphia, PA)

Dr. Cohen was Corporate Medical Director for Women’s Health at Aetna, Chief of Obstetrics at the Hospital of the University of Pennsylvania and Chief of Maternal Fetal Medicine at both the Hospital of the University of Pennsylvania and Albert Einstein Medical Center. He has been a Board Member of the Society for Maternal and Fetal Medicine, ACOG Pennsylvania Section Chairman, President of the Philadelphia Perinatal Society and will be President of the Obstetrical Society of Philadelphia in 2008.



John E. Hall

HALL BOOTH SMITH & SLOVER
(Atlanta, GA)

John Hall’s expertise is in the defense of high exposure, catastrophic cases including birth trauma matters. He has developed a litigation team approach, which enables a team of specialized attorneys to lead the defense of these cases or assist local counsel on birth trauma and high exposure cases at all phases of the legal process. His reputation has been built on successfully trying these cases.

- Tools for assessing/discrediting experts in the case
- Getting expert witnesses in — or keeping them out
- Top 5 red flags that should have you steering clear of using a particular expert
- Expert v. advocate: drawing the line
- Role of ACOG standards and criteria in expert evidence
- What makes expert witness testimony unethical?
- When should professional society discipline be invoked?
- Using the expert’s previous testimony against him/her
- Assessing credibility of the other side’s expert

4:30 Q & A Wrap-Up and Conference Concludes

Post Conference Interactive Workshop

Thursday, June 21

8:30 a.m. to 12:30 p.m. [Registration begins at 8:00 a.m.]

The Attorney's Guide to Handling an Obstetric Malpractice Case from Start to Finish: Discovery, Damages and More



Joseph Picchi

GALLOWAY, LUCCHESI, EVERSON AND PICCHI
(Walnut Creek, CA)

Obstetric malpractice cases are extremely complicated to litigate. For one thing, in order to effectively examine and cross-examine the expert witnesses retained in the case, you must become somewhat of a medical expert yourself. Then, there are all the litigation techniques specific to litigating a medical malpractice cases. And, with damages in some birth trauma cases sailing well over the 50 million dollar mark, you need to have all the tools possible at your disposal to assess what the case is really worth.

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

- Investigating the facts concerning liability, causation and damages: what's relevant?
- Identifying the issues to retain the appropriate expert witness
- Pretrial discovery of the plaintiff's and the defense's case
- What medical records are you entitled too? What should you specifically be seeking?
- Ensuring your client is prepared for trial
- Overcoming the challenges of representing the institutional client
- Settling the case: strategies for success
- Making the case for or against damages
 - what type of damages and how much?
 - what will the long term medical care really cost?

This is an excellent opportunity to take the information you've acquired over the previous two days at the conference and consolidate it into one practical, "walk-through" scenario, with hands-on strategies and techniques you can apply to your current case(s).

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ACI certifies that the activity has been approved for CLE credit by the New York State Continuing Legal Education Board in the amount of the 15.5 hours and an additional 4.5 hours for workshop participation.

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ACI understands that gaining perspectives from – and building relationships with – your fellow delegates during the breaks can be just as valuable as the structured conference sessions. ACI strives to make both the formal and informal aspects of your conference as productive as possible.

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Interactive Workshop

The Attorney's Guide
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and More

Thursday, June 21, 2007

REGISTRATION FORM

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Registration Fee

The fee includes the conference, all program materials, continental breakfasts, lunches and refreshments.

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