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## **COMMENT**

Raimond Giard, MD, JD, PhD | Prof. Emeritus of Tort Law, Erasmus School of Law, Rotterdam, the Netherlands and clinical pathologist and clinical epidemiologist For electronic fetal monitoring (EFM) to be effective, the following prerequisites must apply:

- 1. Until parturition, the child is healthy and the unwanted injuries come into existence only during the stage of labour.
- 2. The underlying disease mechanism is asphyxic injury of the child's brain.
- 3. The disease process is gradually evolving and the child progressively shows signs of distress, diagnosable by means of EFM. This allows proper timing of an emergency intervention before irreversible brain injuries have taken place.
- 4. Timely intervention based on proper interpretation of these stress signals averts or at least lessens the brain damages.

These assumptions however are corrupted by the overwhelming evidence that the incidence of cerebral palsy is not reduced by electronic fetal monitoring, an assertion also powerfully made in Hirsch' viewpoint. [1,2] Especially intrapartum asphyxia as the general underlying pathogenetic mechanism for this harm has been disproven. [3,4] However, the obstetrical community seems to hold on to this meanwhile overthrown theory and the EFM-practice.

The cardinal driver of cerebral palsy litigation is this faulting of electronic fetal monitoring, which has continued unabated now for 5 decades. By adhering to the above-mentioned suppositions, the wrong disease mechanism, and a flawed diagnostic device, obstetricians are digging their own legal graves. Expert witnesses serve mostly as helpful grave-diggers.[5]

What is desperately needed is the awareness that cerebral palsy is an umbrella term for a disease with a complex and diverse pathogenesis and that the possibilities for its prevention are limited [6]. As such, the unrestrained continuation of EFM poses an enormous ethical dilemma. [7]

## References

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