### THE BUSINESS OF LAW

# Abortion Doctors' Patients Broaden Suits

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staff Reporter of The WALL SPERRY JOURNAL Abortion doctors are facing a new kind of majoractice lawsuit.

Women have started making unusual claims in such suits, alleging that their abortions amounted to assault and battery or caused posttraumatic stress disorder.

An anti-abortion group called Life Dynamics Inc., which encourages such claims, even suggests accusing LEGAL BEAT

gests accusing abortion clinics of deceptive trade practices for pres-suring women and misrcpresenting their options. Rac-ist or sexist doctors.

it also says, can sometimes be accused of violating a plaintiff's civil rights. (The group won't say whether any deceptive-trade practices or civil-rights claims have been filed.)

The additional claims, the group save The additional claims, the group says in material distributed to lawyers. Can help women avoid caps on mahracites awards. In some cases, the group says, the additional claims can be used as grounds

additional claims can be used as grounds for punitive damages.

The group, which also gives free legal help to atturneys who file ordinary claims alleging botched procedures or inadequate information about risks, is up front about its political agenda. "We would like to see all of them (abortion doctors) out of business," says Mark Cruther, president. But he says his group encourages lawsuits to protect women from bad doctors. He arrough that the wast majority of abortion gues that the vast majority of abordon doctors do such an inadequate job in screening and informing patients of the risks that they can be sued in cases of

risks that they can be sued in cases or physical injury.

To the National Abortion Federation, however, the group appears to be trying to drive all abortion providers out of business with harassing litigation. "We believe [Life Dynamics' activities] to be unethi-cal and to be very domaging to what should be a legal process for redress of genuine

malpractice," says Syivia Stengie, the group's executive director.

It's unclear how much of a threat Life Dynamics poses. Mr. Crutcher says the group is assisting attorneys in 43 suits, which he declines to discuss. Abortionights groups say they are aware of no more than a handful. But in response, some abortion clinics are tightening their policies, so that women would have a hard time claiming they didn't know the risks. Some clinics are asking women to write out in longhand a copy of the standard consent form spelling out what can happen. Other clinics now videotape patients giving their consent.

consent.

In a recent case, a lowyer affiliated with Life Dynamics alleged that a Louis-ville, Ky., abortion clinic assaulted a 14-year-old who gave consent for an abortion after she was raped. An aunt had forced after she was raped. An aum had forced the girl to undergo the procedure against her will, her altorney argued, so the girl's consent wasn't valid. The patient, now 18, was traumatified by the abortion, said her layerer. Theodore H. Amshoff Jr., who should both companions and market was the companion of the com sought both compensatory and publice damages.

seight both compensatory and pinchove damages.

The case was dismissed last month because the statute of limitations was shorter after the plaintiff got married, and the court never addressed the allegations. But the chinc, KMW Women's Surgical Center, spent about \$8,000 and a year's effort on the litigation. "I believe it was a frivolous suit and a suit of harassment," said Dona Wells, executive director.

Mr. Amshoff disagrees. "Il doesn't behoove us, from an autorney's perspective, to bring cases without substantial merit, because these are contingency cases," he says, meaning that lawyers collect a share of any damages awarded.

For at least a year, Denton, Texasbased Life Dynamics has been providing lawyers with physictan-discipline records

lawyers with physician-discipline records and lists of potential expert witnesses. The and uses of potential expert witnesses. If group's abortion-malpractice conference in Dallas in March attracted 125 lawyers. It recently started offering a 3-D computer animation of an abortion that can be used to help jurors understand the proce-

dure. Life Dynamics also offers to couch plaintiffs on how to conduct themselves in

In addition, the group provides lawyers with material they can use to solicit clients, including a professionally produced television commercial, radio scripts, marketing brochures and tips for getting media attention.

The TV commercial, for instance The TV commercial, for instance, shows a distressed woman on a stormy night. "If you've been physically of emotionally injured by an abortion, don't suffer in slience," a voice-over says. "You have a right to seek compensation in a

court of taw."

The ads appear to be aimed, at least partly, at the weak links of the abortion movement — women who have had abortions despite being philosophically opposed to the procedure. Ms. Stengte of the National Abortion Federation says one in five abortion patients falls into this gro five abortion patients falls into this group.
"It's a very worrisome subset of our patients," she says. "Sometines, ethically, a
provider has to say, "If you think you are
doing something wrong, I don't want to
help you do that."
while courts haven't yet decided
whether the new claims are frivolous,
judges in other types of malpractice suits
have allowed them.

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have allowed them.
Assault and battery, for instance, can be used in malpractice cases if a patient didn't give "informed consent" to an operation, several courts have said. But malpractic lawyers say they seldom file the more-serious assault-and-battery claim because patients don't collect much money if they win. The reason is that insurers refuse to write coverage for assault and battery and other intentional misconduct. misconduct.

iome courts have allowed claims for posttraumatic stress disorder in abortion postiraumatic stress disorder in abortionmaipractice suits. In a notable 1992 case,
New York state's highest court allowed
such a claim sgainst a doctor who performed an incomplete abortion that led to a
grotesque miscarriage. The patient was
awarded \$125,000. Life Dynamics suggests
to lawyers that postraumatic stress disorder occurs in one out of five abortions.

One-lew firm that often draws on Life
byfiamics' resources is Mr. Amstoff's
firm, Swendsen, Amstoff, Marcoey, Strahan, Smith & McInerny. One of the firm's
partners has even done legal research
that fire group hese publicated. The Washington, D.C., firm, founded in February to
specialize in abortion malpractice, says it

ington, D.C., firm, founded in February to specialise in abortion malpractice, says it has 22 pending cases.

In a continuing Rhode Island case, Mr. Amshoff argues that, in addition to committing malpractice, a clinic inflicted emotional distress by performing an incomplete abortion that led to an infection. The case against the Women's Medical Center of Rhode Island also includes an assaulthment of the commentation of the and-battery claim, based on arguments that the woman wasn't fully aware of the

risks.
Patricia A. Sullivan Zesk, an attorney
for the Women's Medical Center, denies the allegations.

Swendsen Amsholf has come under fire because several partners have done work for the anti-abortion movement. But part-ner Amy McInerny says, "We are not movement activists or philosophers. We are a law firm.

are a law lirm.

Swendsen Amshoff partners say they have negotiated settlements worth hundreds of thousands of dollars and worked on two cases in which the physicians subsequently had their licenses sus-

Legal ethics experts, meanwhile, say Legal ethics experts, meanwhile, say the sec nothing wrong with Life Dynamics' factics — even if they are politically motivated. "Everything that this group is doing," says New York University professor Stephen Gillers, "is within their First Amendment authority to advance their view of the world through the courts."

#### WHX Plans Stock Buyback

NEW YORK-WHX Corp. said its board authorized the repurchase of up to 10% of its common shares outstanding. The steelmaker said purchases may be made from time to time in the open market

at prevailing market prices.
. WHX has about 27.7 million shares outstanding. Its stock closed yesterday at \$14.875, up 50 cents, in New York Stock Bx-change composite trading.

#### LAWYERS & CLIENTS

## Coudert Brothers Risks Losing Global Franchise to Competitors

Continued From Page Bi

wouldn't burn around." says departing Paris partner Nicolas Sokolow, who added that financial considerations were not the firm and Mr. Sokolow attributed their mand Mr. Sokolow attributed their separation to "irreconcitable differ-

hen he was elected the firm's chair-. warm me was energed the firm's chairman last year, one of Mr. Williams's goals was "to push down to local offices as many administrative decisions as possible" he says. "I think we have succeeded." he adds.

After Mr. Williams took over, the executive committee swiftly eliminated the position of managing partner. Instead of having a New York attorney responsible for making administrative decisions world-wide, partners with those dulies were appointed in every office. Mr. Williams acknowledges that the firm's previous leaders wanted to centralize decision making. "We have gone the other

son mainty. We have gue use other way," he says.

But the changes came too late for some. Four Coudert partners in Paris and one in New York leapt at an offer from Washington's Arent, Fox, Kintner, Plottin & Kahn. Under the arrangement, the Coudert group formed its own partner ship but agreed to exchange client referrals and related fees with Arent Fox. The two firms will also jointly pitch for business and say they will consider closer ties

Such affiliation agreements are grow-common as U.S. law firms attempt to test foreign waters without making the kind of financial and managerial commit-

ann of mancai and managerial commi-ments that have challenged Conder. Including some 11 associates, the Paris departures amounted to a third of the lawyers in Coupert's, Paris office. Several people familiar with the firm's finances

said the four partners who left had \$4.5 million in billings tast year. A New York Coudert partner who joined them, Jean-Francois Carreras, had \$2 million in billings last year, these people said. (In an unusual arrangement, Mr. Curreras was made a partner of both the new French firm and of Arent Fox.)

Coudert says the departures aren't sig-nificant. Mr. Williams won't say how much the Paris defectors billed last year but says other people had "materially overstated" the figures. He adds that the defectors' billings declined 40% last year from the prior year and had continued to be "on the prior year and had conunted to be did decline" this year. "It's not some kind of death blow," says Coudert partner Thomas Brislin in New York. He says the froms Erisin in New York. He says the firm's revenues last year were a "a bit over" \$125 million. The firm now has 127 partners working out of 20 offices.

Coudent's Mr. Williams contends that,

Coudert's Mr. Williams contends that, after all the defections, the firm is 'no much stronger and more efficient partnership."
But Mr. Sokulow, who won't discuss his billings, says Coudert seems to be "taking an aggressive view in terms of damage control ... The fact that you have a split in the second-biggest office is a nonevent?
Fine, let it be a nonevent."
Stephen Heard of Arent Davie New

Fine, let it be a nonevent."

Stephen Heard of Arent Fox's New York office adds: "Let's face it, Coudert is the franchise we're all nibbling away at." Mr. Heard, who led the talks with the Coudert group, says Arent Fox was esger to expand its overseas presence, which previously consisted of two small offices in Numero and Sault Arabia. offices in Hungary and Saudi Arabia.

Although it couldn't offer the Cou-

Athough It couldn't other the Couldn't of the Mayers the kind of vast international network they were accustomed to, the Washington firm promised something else: "I told [Mr. Sokolow] we were an unstructured unbureaucracy," Mr. Heard