

The Forceps Affair

A baby boy was left on his deathbed after a botched delivery. The worst part: He wasn't the first.

By Sarah Fenske



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25:01



Until the final minutes of his mother's pregnancy, until those awful moments when everything suddenly shifted from good to complicated to terribly bad, Matthew was expected to be a big, healthy baby. His mother worried that he was too big, in fact, but she was a first-time mother. She was supposed to worry.

The first sign of trouble didn't come until 8:30 on the morning of December 1, 2000, after Dawn Fenske (no relation to the author) had already been pushing for hours. Only then did doctors at University Hospitals discover that her baby's head had moved sideways.

It wasn't a crisis, not yet. The medical resident, Dr. Elizabeth Brandewie, calmly noted the finding on her charts. Brandewie had seen it before. The obstetrician in charge, Dr. Nancy Judge, was apprised; she suggested a Cesarean section.

Joe and Dawn Fenske thanked Judge for her advice, but didn't commit. They wanted to consult their own physician, Dr. Laszlo Sogor. Recently named acting chairman of University Hospitals' obstetrics and gynecology department, Sogor had 20 years of experience. Dawn had been in his care since first discovering she was pregnant.

Judge paged Sogor, then paged him again. Almost 20 minutes passed. Judge would later say that she was ready to give up when Sogor swept into Fenske's room.

Sogor didn't offer a Cesarean -- not even as an option, the Fenskes say. Instead, he said he would use forceps to rotate the baby. If that didn't work, he would go for the C-section.

In the next quick moments, Dawn felt Sogor reach in with the instrument, turning and pulling. She cried out in pain. Brandewie's notes record two attempts, then a rush to a Cesarean. Monitors showed the baby's heart rate had fallen suddenly and dramatically.

When Brandewie delivered Matthew minutes later, forceps scars marred his scalp, neck, and face. He was limp and gray, his lower body motionless.

Over the next four months, Matthew struggled to live. He had to be fed through a tube because he couldn't nurse. Doctors cut a hole in his windpipe because he couldn't breathe. When he cried, he made no sound.

At first, it seemed hard to blame Sogor. The head of University Hospitals' training program for residents, he seemed too smart and too respected. Even when the Fenskes' research indicated that forceps were likely responsible for Matthew's injuries, Sogor's actions seemed at most one error of judgment in a spotless career.

Then the Fenskes learned they weren't alone. When another family made similar allegations against Sogor, the doctor was left trying to impugn both mothers, expert witnesses, medical residents at the scene, and even his own notes.

There would be no victory. In the end, there would be exactly what there was in the beginning: two wounded families and two babies that would never be healthy.

Matthew Fenske's suffering began on his first day of life. He was rushed to intensive care at Rainbow Babies and Children's Hospital. Tests showed that his spinal cord had been ripped. He was a quadriplegic. Doctors told his parents they could offer no treatment; Matthew's injuries were permanent.

The Fenskes were devastated -- and angry. Dawn told nurses that she blamed the doctors at her delivery.

(Through their attorney, Michael Djordjevic, the Fenskes declined comment. Sogor did not respond to repeated interview requests.)

The next day, Sogor visited Dawn in her hospital room. He said he was sorry, according to her deposition. She claims Sogor said something else, too -- something he denies: that he had conducted research and found only 15 babies born like Matthew. The injuries, he said, might have occurred because of the forceps, during the Cesarean, or during the "handoff" to the pediatric team after Matthew's birth.

It may have been the truth as Sogor knew it, but it wasn't the final word. Later that month, Dawn met with neonatologist Martha Miller at Rainbow. Part of a neonatologist's job is to explain a baby's disability and to determine whether it happened in the womb, during delivery, or after.

Miller told the Fenskes that the spinal cord injury occurred during Matthew's birth, according to court records. She gave them the phone number of Max Perlman, a neonatologist at the prestigious Hospital for Sick Children in Toronto.

Perlman faxed the couple a study he'd authored in 1995. It detailed 15 cases that seemed to match Matthew's -- cases he and a colleague had documented at two Canadian children's hospitals. In every one, doctors had attempted to rotate the babies with forceps.

In February 2001, the Fenskes filed suit against Sogor, University Hospitals, and Judge. They charged that Sogor failed to disclose the risks associated with forceps. Matthew's condition was the result.

Doctors have been using forceps since the 1700s. The ones Sogor used were designed in 1858 and look it: A handle leads to steel fingers, bowed to grasp both sides of a baby's head.

Fifty years ago, they were ubiquitous. "The C-section was very risky back then, so use of forceps was commonplace," notes Dr. Roger Freeman, a professor of

obstetrics and gynecology at the University of California at Irvine.

Not so today. Sogor would testify that he performs 30 to 40 deliveries annually and typically uses forceps in only one. Much more than modern vacuum extractors, forceps depend on a doctor's skill, which makes for "intrinsic" risk, Freeman says.

Rotations like the one Sogor allegedly performed -- called "midpelvis," since the baby is high in his mother's pelvis -- are even more unusual, Freeman says. In her deposition, Judge reported that Sogor was one of only two or three doctors at University Hospitals willing even to attempt them. Most young doctors won't; Brandewie testified that Case Western Reserve doesn't teach the procedure to medical students.

At first, Matthew's injury looked like the unfortunate side of a difficult procedure. Even Perlman, whose article broke ground by documenting the link between spinal cord damage and rotations, didn't necessarily pin the injuries on operator error. "We . . . cannot determine from our cases whether this serious injury can only occur as a result of misjudgment or mismanagement, or whether this injury is an intrinsic risk -- albeit very rare -- of even a properly performed forceps rotation," he wrote in 1995.

And if any doctor could make a case for his own skill, it would be Sogor. He had the degrees: a bachelor's, a Ph.D., and a medical degree from Case. He had the positions: In 1987, he joined University Hospitals' training program for obstetricians and gynecologists. By 1992, he was leading it. He is an associate professor at Case's medical school and served as chief of gynecology at the Louis Stokes VA Medical Center for eight years.

Until this point, the only controversy in his career was political. Pro-lifers last year camped outside Preterm, a clinic where Sogor serves as medical director. Because of him, they also staked out University Hospitals.

The hospital stood by him. It had no reason not to. Sogor was respected enough to be summoned as an expert witness in several malpractice cases each year. He also made the 2002 roster of Best Doctors Inc., an Internet service that matches customers with physicians recommended by medical leaders.

He had the respect of students as well. Dr. Richard Beigi, a fellow at the University of Pittsburgh, studied in UH's residency program several years ago. "He's not a mess-around, fool-around kind of guy," Beigi says. "He took care of business, and he knew what he was doing. I had great confidence in his abilities."

Sogor is an especially skilled surgeon. Case's website lists him as its "faculty expert" in several complex gynecological procedures. "He was part of the reason I came to do my residency" at University Hospitals, Beigi says. "He was the glue in that program."

Despite Dawn Fenske's certainty that Sogor was to blame, it looked like her word against the doctor's -- and his golden credentials.

On March 30, four months after his birth, Matthew left Rainbow and arrived at the Hospice for the Western Reserve. He had no real hope of improvement. His parents had given up.

It had been a hard four months. The newborn was in "conscious pain and suffering," according to his parents' suit. "Matthew was unable to clear his own pulmonary secretions and was suctioned multiple times a day to prevent infection.

Matthew was frightened of the suctioning and would cry when the nurses approached him. Because Matthew had [a hole in his throat to breathe through], he was without a voice, so he cried with tears but no sound."

Dawn Fenske kept a desperate vigil at the hospital, returning to the couple's Wickliffe home only to pay bills and do an occasional load of laundry.

In a deposition, Brandewie recalled seeing Matthew in the intensive care unit. (Brandewie did not respond to interview requests.) He was on a respirator, she said. He was sleeping. "He looked beautiful."

Lawyers asked Brandewie if she had ever seen a worse outcome from a delivery.

"Other than death, no," she said.

At the hospice, Matthew was taken off life support. He died April 4.

Every doctor gets sued. And no matter his accomplishments, Sogor has faced his share. From 1984 to 2000, he was sued for malpractice 17 times in Cuyahoga County.

It's a healthy figure, but not necessarily a meaningful one -- particularly in obstetrics and gynecology, which fields a high percentage of malpractice cases. Nor does it help that Sogor is part of a larger practice. Lawyers are known to name doctors who aren't directly responsible to cover their bases until they determine exactly who is to blame. (Insurers say it's a dirty tactic to pressure co-workers into cooperating with the plaintiffs.)

Some suits may be frivolous. As insurance companies note, 70 percent end with no payment to the people suing. Yet there's a flip side to that: In the other 30 percent, someone likely screwed up.

Most of the cases against Sogor were resolved in ways that seemed to vindicate him, according to court records. In four, he was not the physician at fault; four more were dropped before it was clear which doctor was to blame. Two others made serious claims against him, but were dropped without explanation before settlement talks even began. Another was dismissed by the judge after missing the statute of limitations; yet another went to a jury, which decided in Sogor's favor.

Others are less clear. Though dollar amounts weren't disclosed, four were settled with payments to victims and their attorneys. In another, an elderly Cleveland Heights woman claimed a botched surgery by Sogor left her permanently incontinent. A jury awarded her \$1.25 million in June.

None, before the Fenskes' suit, involved forceps or poor judgment in a delivery.

That changed just one day after Matthew died. On April 5, Cleveland resident Carla McPherson filed suit against Sogor and University Hospitals. She alleged Sogor had attempted a forceps rotation on her baby boy.

Like Matthew, McPherson's son suffered terribly.

Carla McPherson was 26 when she arrived at University Hospitals for her son's birth. It wasn't her first delivery: McPherson dropped out of East High School as a sophomore, pregnant with her first daughter. A second daughter arrived two years later.

McPherson met her current boyfriend, Anthony Cornett, in 1998, and they decided to have a child. When McPherson discovered she was pregnant, she quit her job at Dollar Rent-A-Car and moved in with Cornett in an East 126th Street apartment.

Both McPherson's daughters were healthy babies. Carlion Cornett, delivered by Sogor and two medical residents in November 1999, was not.

McPherson had been in labor 11 hours when Sogor arrived in the delivery room around 2 p.m., according to court records. She seemed to be getting nowhere and wasn't fully dilated, according to notes taken at the time.

(Through her lawyer, Gary Kisling, McPherson declined comment. Details about the case come from court files and depositions.)

Sogor said he'd do a Cesarean if things didn't progress. They didn't. "All I can remember is, I was pushing, and they were saying they could see the head, and just nothing was happening," McPherson said in her deposition.

But Sogor wasn't willing to abandon vaginal delivery. At 3:40 p.m., he tried to pull Carlion out with a vacuum extractor, according to notes taken by nurses. That's when things get confusing: Sogor says he couldn't get the machine placed properly and had to try repeatedly to attach it. Nurses' notes, however, say he "applied" the vacuum no less than seven times. Still no baby.

Sogor wasn't giving up. "My clinical examination revealed that I felt that still this baby could be delivered very quickly vaginally," he said in his deposition. "So I felt it would be reasonable to try to do a manual rotation. And failing that, I thought maybe I could get a forceps on and pull the baby out very quickly."

Sogor tried to rotate Carlion with his hands. No luck. So he went for the forceps. "Forceps were applied," he wrote in his report; "however, rotation could not be affected."

Sogor finally opted for a Cesarean. His notes record the reason -- fetal distress -- though McPherson says no one shared it with her at the time.

Indeed, McPherson had no idea anything was wrong until they pulled out her baby. She was expecting to hear him cry. Instead, there was silence.

"They got the baby out, and then the baby wasn't crying or anything," she said. "They took the baby over, I guess, to clean him up and everything, and I just didn't hear the baby crying. Everybody was crowded around him, that's the only thing I can remember."

Three hours later, a nurse offered McPherson an explanation. Carlion had been choked by his umbilical cord, and the oxygen to his brain had been cut off. He was brain-damaged. There was little hope for baby Carlion. He was hospitalized for three months after birth, then sent to the Hattie Larlham Foundation in Mantua, a home for "catastrophically injured" children. By age two, Carlion functioned no better than a three-month-old. He couldn't crawl, walk, or talk. Even with around-the-clock nursing, he was frequently ill. His family tried to visit him in Mantua every Sunday, but it often seemed futile. Lawyers later asked McPherson if Carlion even recognized her.

"I could say sometimes he does, and then other times he doesn't," she said. Anthony Cornett lost his job because he missed so much work to visit Carlion in the hospital, she said.

"We still as parents have the hope and faith he is going to get at least a little better than he is," McPherson said. "We were hoping to bring him home one day so he could be in the house with all of us."

At first, Carlion's problems seemed to have little in common with Matthew's. Matthew's spinal cord had been ripped, while Carlion had brain damage. Forceps were thought to have injured Matthew; Carlion's injury was apparently near-suffocation.

Yet closer inspection revealed connections. Both families reported forceps rotations, as well as Sogor's reluctance to perform a Cesarean. Most important, there was no indication either baby was in trouble before Sogor's attempt at vaginal delivery. Experts hired by the Fenskes agreed that a Cesarean would have produced a healthy child; in court files, Kisling, McPherson's attorney, argues the same.

It's hard to imagine why Sogor insisted on trying a more difficult procedure first, though Cleveland malpractice attorney Romney Cullers offers one idea. He is not familiar with the cases against Sogor, but he's seen doctors opt for vaginal delivery because it's cheaper. "If it's a poor person with no insurance or bad insurance, the hospital is not getting reimbursement except for the minimum. They don't want welfare patients occupying hospital beds." Cesareans mean longer hospital stays.

Djordjevic, the Fenskes' attorney, declines comment on their case. But as a malpractice attorney who handles many baby cases, he's noticed physicians opt for vaginal delivery whenever they can. "I don't know if it's institutional pressure, insurance companies, or their own ego, but many of these doctors try their best to keep their Cesarean rate down."

After the nation's Cesarean rate skyrocketed in the late '70s, everyone from women's groups to the World Health Organization criticized obstetricians for performing the surgeries too quickly. They were afraid of lawsuits, the critics argued, or didn't want to stay late at the hospital. Cesarean rates began to drop.

But while doctors were damned if they did, they were just as damned when they didn't. Vaginal deliveries are much riskier for oversized babies or ones with heads at an angle, Djordjevic says. They can be better for the mother than a Cesarean, he says, but given the choice, most mothers will risk their own health to protect their babies.

"Eighty percent of the cases we get are women who are not informed as to what's really going on," he says. "The doctor just makes the choice for them -- and it's not the choice they would have made." In a smooth delivery, those choices are easily forgiven. It's a different story when something goes wrong.

Surprisingly, and in contradiction to his own notes, Sogor says he never did the procedures that everyone else -- the mothers, nurses, medical residents -- say they witnessed.

In his Fenske deposition, Sogor claimed he put the forceps in, but never attempted to rotate, despite Dawn Fenske's testimony that she felt a "hard pulling motion" that made her cry out in pain. Brandewie, who recorded in her notes that Sogor had tried to rotate and couldn't, testified that Sogor approached her several months later in a hallway at the hospital and announced he'd never rotated Matthew or even intended to rotate him.

Sogor had even more to deny in his McPherson deposition. Badgered by McPherson's attorney, he admitted that three suction attempts with a vacuum

extractor is generally considered plenty. But he denied doing more than three on Carlion, despite minute-by-minute nurse's notes recording seven.

He dismissed the contradiction as poor note-taking. Same with the forceps.

It didn't matter that Sogor's own notes indicated he had applied the forceps, tried to rotate, and couldn't. He would later say he never even tried. "Because I could not apply the forceps properly, a rotation couldn't be done," he insisted.

The difference was critical. The Fenskes had Perlman's study, which clearly connected forceps rotation to Matthew's injuries.

The McPherson case looked even worse. In his deposition, Sogor admitted that vaginal deliveries, vacuums, and forceps rotations could all potentially tighten the cord. "If you pull with any instrument . . . you can tighten the cord," he said. "You can. It's not to say that it will tighten."

But when a cord is wrapped tightly around a baby's neck, time is of the essence. Records show Sogor's multiple vacuum and forceps attempts took at least 20 minutes -- minutes that could have spared Carlion from brain damage.

Taken together, the two cases seemed to create a pattern -- one attorney Djordjevic was only too eager to note: "What was Dr. Sogor thinking [by using forceps] after what had happened to Carlion?" he asked in a court filing. "Was it competition with Dr. Judge? Was it an effort to impress Dr. Brandewie? Was it pure human ego? Whatever it was, it was a conscious disregard for the rights and safety of Matthew Fenske that caused him and his family substantial harm."

Sogor's attorney, William Meadows, declined to discuss either case. However, in a written statement, he did note that "you should be aware Dr. Sogor has recently been named by his peers as one of the top doctors in his field as published in *Cleveland* magazine and *Northern Ohio Live*."

The Fenskes' case against Sogor came together suddenly and powerfully. First Carlion surfaced with equally horrific injuries, inflicted just one year before Matthew. Then came Sogor's seemingly shifty denials.

Most important were the experts. Each was unequivocal in casting blame. "At any time after [Sogor] assumed responsibility for this patient, he could have performed a Cesarean delivery and avoided this complication," concluded Dr. David Acker, a professor at Harvard Medical School.

The experts were also convinced Sogor had indeed tried to rotate Matthew. Dr. Leslie Iffy, an obstetrician from Summit, New Jersey, found "evidence of excessive force on the part of the physician."

Dr. Savas Menticoglou of the University of Manitoba agreed that Matthew's injury was "almost certainly a complication of the attempted forceps rotation and delivery," and that the decision to undertake it was "premature and ill advised."

Perlman provided the harshest words. In his 13-page report on Matthew, he noted that the spinal cord injuries he documented in 1995 virtually disappeared from Toronto following his paper's publication.

With that in mind, Perlman revised his original hypothesis that spinal injuries were but a rare risk of rotations: "Excessive or inappropriate force was probably applied in the great majority if not all reported cases of upper cervical spinal injury," he wrote. Matthew, he believed, fit his thesis perfectly.

Before Djordjevic filed the expert opinions, University Hospitals had asked Cuyahoga County Common Pleas Judge Thomas Pokorny to rule in its favor without a trial. Sogor was operating independently in Matthew's delivery, its attorneys said; the hospital was not responsible. (Hospital spokeswoman Eileen Korey refused comment.)

Djordjevic fired back. After Carlion's birth, he argued in a brief, "University Hospitals did nothing to assess its obstetrics residency program. It never investigated Dr. Sogor's competency (or lack of it) concerning instrumental deliveries, including forceps and vacuum extractors, despite Carlion's horrible outcome.

"Furthermore, now armed with actual knowledge of Dr. Sogor's lack of competency, University Hospitals did not place Dr. Sogor on probation, assign another senior physician to shadow and observe Dr. Sogor's deliveries, require Dr. Sogor to undergo additional training, or curtail Dr. Sogor's privileges in any way relative to the use of forceps and vacuum extractors on babies born at University Hospitals."

Judge Pokorny never got a chance to rule on UH's request. One month after Djordjevic's brief, Sogor and University Hospitals chose to settle. The dollar amount was not disclosed.

If forceps injuries can be avoided, as Perlman now believes, the lack of response to Matthew Fenske's brief life is frightening.

Perlman's original research documenting the link between spinal injuries and forceps has been widely available for seven years. It was published in a prominent obstetrics journal and available at Case Western Reserve's medical library. Even an Internet search quickly yields its abstract. As someone who teaches medical students, Sogor and his colleagues, it's safe to assume, could easily have read it -- if not before Matthew's birth, then certainly after it.

In his report, Perlman notes that Matthew's injuries were in part a failure of the system: "The problem may be explained by either deficient obstetric training (a recognized problem) or the development of a relatively invigorant culture regarding forceps rotation."

Indeed, despite the serious allegations against him, Sogor continues to teach residents and deliver babies. If University Hospitals has attempted to investigate his forceps use, it isn't making its efforts public. Brandewie said in her deposition that she knew of no policy changes after Matthew's injuries.

Nor is Case concerned. George Stamatis, a spokesman for its School of Medicine, says the university doesn't discuss personnel issues, but adds that he has heard of none involving Sogor.

Lauren Lubow, a spokeswoman for the Ohio Medical Board, says she can't discuss whether complaints are pending against Sogor.

The people involved seem more interested in burying the issues than learning from them. One day after a reporter called Sogor and University Hospitals for comment, the entire Fenske court file disappeared from the Cuyahoga County clerk's office. Judge Pokorny's staff attorney told *Scene* the file had been sealed as part of the settlement.

The Fenskes themselves are under a strict agreement barring them from comment on the case, Djordjevic says. He, too, can discuss no part of the agreement.

Carla McPherson hadn't planned to file a lawsuit. Unlike Dawn Fenske, she didn't have an immediate sense that her doctors were to blame.

Hers was more a growing suspicion. After the nurse told McPherson that Carlion's cord choked off his oxygen, she never got an additional explanation, she said. Then Sogor called her at home. "He asked how I was doing," McPherson recalled. "I told him I was fine, and then I can't remember all of the conversation, but specifically I remember him telling me my son's neck was bent."

Sogor's words fueled her wonder. "Everybody seemed like they were whispering after he was born in Rainbow. It was like they weren't telling us the truth. They were telling us different things, like his neck was bent, then he was choked by the umbilical cord . . ."

McPherson's suit is pending in Common Pleas Court, with trial set for March. University Hospitals is asking Judge Pokorny to dismiss not just the hospital this time, but the entire case. Pokorny has yet to rule.

In the meantime, McPherson continues to visit Carlion and raise her two girls. She had been planning to see Sogor to get her tubes tied, but she failed to follow through. She and Cornett have considered trying for another child. "Sometimes we say, if it happens, it was meant to happen," she said.

There was also her growing sense that Sogor was to blame for Carlion's condition. The lawyers asked why she didn't see Sogor for a follow-up visit.

"Because of the situation, I was just torn up about my son," McPherson said. "I just didn't go back."

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