

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 28th day of March, 2019.

Present: All the Justices

John A. Blazer,

Appellant,

against

Record No. 180476

Circuit Court No. CL15-7639

About Women, OBGYN, PC, et al.,

Appellees.

Upon an appeal from a judgment rendered by the Circuit Court of Prince William County.

Upon consideration of the record, briefs, and argument of counsel, the Court is of opinion that there is reversible error in the judgment of the Circuit Court of Prince William County.

In a letter opinion dated October 17, 2017, the circuit court found that John A. Blazer (“Blazer”), as counsel for Mirna Valle-Macall,

violated § 8.01-271.1 by designating Dr. Stokes as an expert witness when a reasonable inquiry, required by the statute, would have revealed that Dr. Stokes did not meet the qualifications set forth in Title 8.01, Code of Va., § 581.20, in that he did not have “an active clinical practice in either the defendants’ specialty or a related field of medicine within one year of the date of the alleged act or omission forming the basis of the action.”

The circuit court acknowledged that Dr. Stokes was a board-certified obstetrician/gynecologist, but he was no longer a practicing obstetrician, having limited his active clinical practice to gynecology since 2012. With regard to whether Dr. Stokes’ gynecological practice was a related field of medicine, the circuit court stated:

As a matter of law, gynecology is not a “related field” within the meaning of [Code § 8.01-581.20. Obstetrics involves the care of women’s health in the prenatal and pregnant status while Gynecology involves health care for women in a non-pregnant status.

The circuit court imposed sanctions on Blazer, ordering him to pay \$5,000 toward About Women, OBGYN, PC’s attorneys’ fees and costs, which the circuit court determined was the amount of fees and costs that related to the identification of Dr. Stokes as a trial expert.

It has been recognized that the question of whether an active clinical practice is in a related field of medicine is a question of fact, *Holt v. Chalmeta*, 295 Va. 22, 35 (2018), that looks beyond a general overview of the medical fields at issue. *See Sami v. Varn*, 260 Va. 280, 285 (2000) (finding the active clinical practice of an outpatient OB/GYN sufficiently similar to that of an emergency room physician to be considered a related field of medicine under Code § 8.01-581.20). The proper focus is on the medical procedure at issue and whether the proffered witness has performed that procedure. *Holt*, 295 Va. at 36 (“Whether a proffered witness meets the active clinical practice requirement is determined by reference to the relevant medical procedure.”); *Sami*, 260 Va. at 284 (recognizing that, where the same procedure is performed in two specialties and the standard of performance is identical, the specialties are related fields of medicine for the purposes of Code § 8.01-581.20).

The circuit court in the present case, however, heard no evidence regarding the specific medical procedure at issue (i.e., the diagnosis and treatment of placental insufficiency and low amniotic fluid), the nature of Dr. Stokes’ gynecological practice, or whether he had performed that procedure at issue at some point. The only evidence the circuit court had regarding Dr. Stokes’ practice was that he retired from practicing obstetrics in January 2012. As the determination of whether gynecology and obstetrics are related fields of medicine is a question

of fact not law, to the extent that the circuit court ruled that gynecology and obstetrics are not related fields of medicine “[a]s a matter of law,” its decision to impose sanctions was “‘guided by erroneous legal conclusions’” and, therefore, was an abuse of discretion. *Shebelskie v. Brown*, 287 Va. 18, 26 (2014) (quoting *Lawlor v. Commonwealth*, 285 Va. 187, 213 (2013)). Accordingly, the circuit court’s award of sanctions is reversed.

This order shall be certified to the Circuit Court of Prince William County.

A Copy,

Teste:

A handwritten signature consisting of stylized initials "D.B.V." followed by a surname.

Clerk