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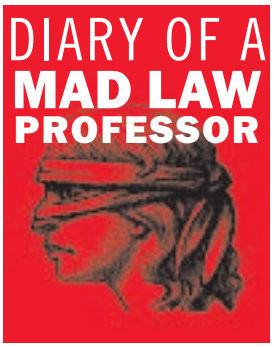
Colorstruck



The March 22 *New York Post* offered a fascinating study in the contradictions of our culture. The top half of the front page was consumed by "a stunning mother-child portrait" of Angelina Jolie with her newest adopted child, or as the *Post* put it, her "Viet man." The lower half of the page was given over to a more lurid headline ("Baby Bungle: White Folks' Black Child") trumpeting "a Park Avenue fertility clinic's blunder" that "left a family devastated—after a black baby was born to a Hispanic woman and her white husband."

The story about Jolie's magical mothering of her rainbow brood was a fairy tale of happily ever after. The bungled baby story, meanwhile, was considerably less heartwarming: Long Islanders Nancy and Thomas Andrews had trouble conceiving after the birth of their first daughter. They employed in vitro fertilization and baby Jessica was born. Jessica is darker skinned than either of the Andrewses, a condition their obstetrician initially called an "abnormality." She'll "lighten up," said that good doctor. Subsequent paternity tests showed that Nancy's egg was fertilized by sperm other than Tom's. The couple has sued.

If this were the end, the story might simply fall within the growing body of other technological mix-ups resulting in what are sometimes called "wrongful birth" suits, for lost eggs, failed vasectomies and so on. There is a legally recognized expectation that a certain standard of care will be observed in the handling of genetic material. There are ethical difficulties with any of these cases. Just to start with, it's a bit of a conundrum to call the birth of a healthy child "wrongful." Therefore, courts tend to be conservative in framing monetary damages, lest they be understood as a property interest in perfection. Hence, awarding the costs of raising an unplanned child resulting from medical malfeasance is obviously less troubling than awarding damages for "the pain and suffering" of parenting a child who was "unwanted." Indeed, in the Andrews case, a judge permitted the malpractice claim to go forward but threw out the claim for the parents' mental distress.

What's distinctive about the Andrews case is that the parents also tried to cite (also without success) Jessica's pain and suffering for having to endure life as a black person. The Andrewses expressed concern that Jessica "may be subjected to physical and emotional illness as a result of not being the same race as her parents and siblings." They are "distressed" that she is "not even the same race, nationality, color…as they are." They describe Jessica's conception as a "mishap" so "unimaginable" that they have not told many of their relatives. (Telling the tabloids all about it must have come easier.) "We fear that our daughter will be the object of scorn and ridicule by other children," the couple said, because Jessica has "characteristics more typical of African or African-American descent." So "while we love Baby Jessica as our own, we are reminded of this terrible mistake each and every time we look at her…each and every time we appear in public."

One wonders what this construction of affairs will do to Jessica, now 2, when she is old enough to understand. But here's the really interesting part. When I turned to other media accounts I found a picture of the family—from their 2006 Christmas card, no less. And Jessica looks exactly like her mother and elder sister. It is true that Jessica is slightly darker than her mother and that her hair is curlier than her sister's, but all three females are pretty clearly African-descended. As one of my students put it, if anything it is the paleness of the father's skin that marks him as the "different" one.

The picture underscores the embedded cultural oddities of this case, the invisibly shifting boundaries of how we see race, extend intimacy, name "difference." According to the *Post*, Mrs. Andrews is "Hispanic" and apparently, by the paper's calculations, one Hispanic woman plus one white man equals "a white pair." The mother is "a light-skinned native of the Dominican Republic," seeming to indicate that while she may not be "white," she's also not "black." Each narrative implies that if the correct sperm had been used, the Andrewses would have been guaranteed a lighter-skinned child. But as most Dominicans trace their heritage to some mixture of African slaves, indigenous islanders and European settlers, and as dark skin color is a dominant trait, it could be that the true sperm donor is as "white" as Mr. Andrews. But that possibility is exiled from the word boxes that contain this child. Not only is Jessica viewed as being of a race apart from either of her parents; she is even designated a different nationality—this latter most startling for its blood-line configuration of citizenship itself.

I might have consigned all of this to tabloid sensation had I not had conversations in recent days in which this case came up. Well-educated legal minds of all political stripes were arguing that there's nothing wrong in the parents' claim, that it's a private choice they made to have a family that looks "like" them and that they should get some money for the girl's "trauma" since, after all, it is harder to be black in this society. Some of the people arguing this have previously argued against affirmative action because our society is supposedly colorblind. Just look at Angelina! If this dreamy reasoning is any reflection of the culture at large, then its logic signals a privatization of civil rights: Discrimination is no longer a social problem that implicates all of us and our institutions as unloving or uninclusive. Discrimination becomes destiny, the normative response to biologized "abnormality."

It is ironic. There is a bill in the Georgia state legislature to make April Confederate Heritage Month. Not Southern heritage, but Confederate. Whatever romance that term may conjure in the collective imagination, it's important to remember that the Confederate Constitution was almost identical to that of the United States. The only significantly different provision was one that said: "No bill of attainder, ex post facto law, or law denying or impairing the right of property in negro slaves shall be passed." In an era when none of us are slaves but all of us are increasingly objects in the marketplace, it is sad and alarming that "Negro" features, however arbitrarily perceived or shiftily delineated, still lower the value of the human product, of human grace. ■