THE ANATOMY OF A LAWSUIT

Saturday, February 22, 2025 Nashville, Tennessee

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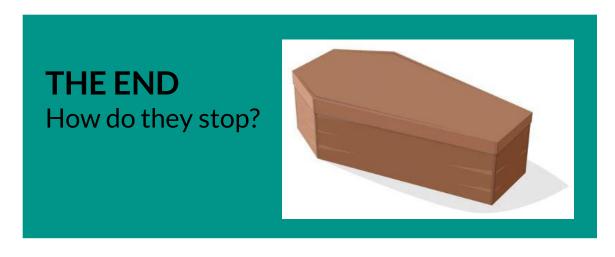




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THE BEGINNING

How do they start?



MEDICAL BASIS



• LEGAL BASIS

MEDICAL BASIS

- Where
 - In-patient
 - Out-patient





- When, the ABC's
 - Anger
 - Bad outcome
 - Communication

THE LEGAL BASIS

- All have these elements
 - Duty
 - Breach
 - Proximate cause
 - Damage

DUTY

What is the duty?

...reasonable care on the part of a physician is that level of care, skill, and treatment which, in light of all the surrounding circumstance, is recognized as acceptable and appropriate by similar and reasonably careful physicians... (Florida)

BREACH

- Standard of care established by experts, yours and theirs, relying on many resources
- Battle of experts



BREACH

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PROXIMATE CAUSE

What is proximate cause?

...negligence is a legal cause of the damage if it directly and in natural and continuous sequence produces or contributes substantially to producing the damage...(Florida)

DAMAGES

- Economic/Tangible
- Non-economic/Intangible

ECONOMIC/TANGIBLE DAMAGES

 Past wages, medical and out of pocket expenses Future wages, medical and out-of-pocket expenses

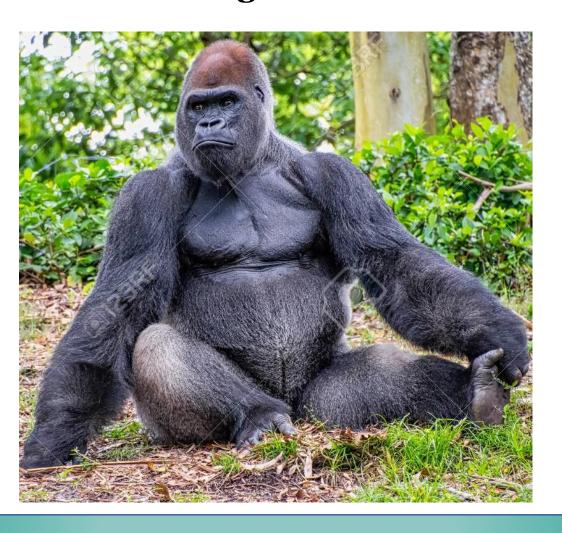




CALCULABLE

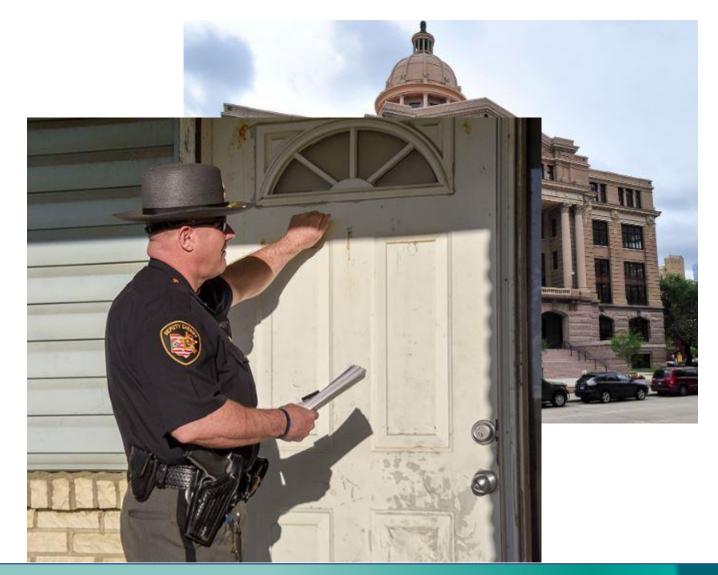
NON-ECONOMIC/INTANGIBLE

• P&S – The 800 lb gorilla in the room



HOW DOES IT START

- Suit is filed
- Sheriff shows up at your door



THE MIDDLE

What happens next?

- A lot!
- Record reviews
- Motions and hearings
- Multiple depositions
- 100's of thousands of dollars spent on costs





WHAT'S MY JOB?

- Conferences
- Interrogatories
- Requests for Production
- Depositions

DEPOSITIONS

Three Areas of Inquiry

- Education, training & experience
- The facts
- The standard of care

Best Practices

- 3 L's
- 5 best answers
- Speculation
- Factual testimony/attorney as advocate

WHAT'S MY JOB?

- Conferences
- Interrogatories
- Requests for Production
- Depositions

- Mediation
- Trial Preparation
- Trial
- Appeal

HOW DOES IT END

How do they stop?

- Win
- Lose







THE GOOD NEWS AND THE BAD NEWS

THE BAD NEWS: YOU'LL PROBABLY GET SUED

THE GOOD NEWS: NOT A SINGLE REPORTED DEATH PROXIMATELY CAUSE BY BEING SUED

WHAT CAN I DO ABOUT IT?

Risk reduction strategies

Winning strategies

WHAT CAN I DO TO REDUCE MY RISK OF GETTING SUED?

Manage expectations

Treat patients with dignity

Explain what you're doing

These have a high ROI

WHAT CAN I DO TO HELP ME WIN IF I DO GET SUED?

Look and act like a doctor

Don't be defensive

Speak plain English

These have a high ROI

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