

# THE ANATOMY OF A LAWSUIT

Saturday, February 22, 2025  
Nashville, Tennessee

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LAWSUIT

Civil Action No.

United States government. Pr...

appropriate circumstances may...

complain...

# THE ANATOMY OF A LAWSUIT

## THE BEGINNING

How do they start?



## THE MIDDLE

What happens next and what do I have to do?



## THE END

How do they stop?



## WHAT CAN I DO ABOUT IT?



# 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

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

# 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



# WIN



Have a drink



No monies paid



Report your  
victory When  
asked

# LOSE

- Have a drink
- Money is paid
  - Verdict/judgment
  - Settlement
- Reports are made
  - State agencies
  - NPDB
- Possible investigations
- Questions from
  - Malpractice carrier
  - Hospital medical staff office
  - Managed care
- Publicity and the impact on your practice



**THE GOOD NEWS  
AND  
THE BAD NEWS**

**THE BAD NEWS: YOU'LL  
PROBABLY GET SUED**

**THE GOOD NEWS: NOT A SINGLE  
REPORTED DEATH  
PROXIMATELY CAUSED 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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