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The Anatomy of a Lawsuit

Presuit Investigation Period
Litigation Stage
  Paper Discovery
  Depositions
  Expert Discovery
  Mediation
  Trial
  Appeal
Presuit Investigation

- Notice of Intent to Initiate Litigation
- Presuit Discovery (written)
- Unsworn Statements
- Expert Review of merits of claim
- Rejection of Presuit
Litigation

- Plaintiff files Complaint for Damages
- Defendant Responds (Motion to Dismiss/Answer)
- Discovery (Written) begins
  - May be asked to answer questions concerning care and summary of facts
  - Potential meeting with Defense Attorney for fact gathering/strategy
What Must The Plaintiff Prove

• Standard of Care - shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

• Causation

• Damages
Paper Discovery

• Interrogatories – Written questions submitted to an opposing party

• Request To Produce – Obtaining Documents from opposing party
  – Medical Records, Personnel Records, Treatment Records, Tax Returns, Pictures

• Request For Admissions
Depositions

- Conferences with Defense Attorneys
  - Review Medical Chart
  - Discussion as to your recollection
  - Gather information to prepare for your deposition
  - Assist in expert review
- Deposition (Under Oath)
  - Questioning by other parties as to knowledge of incident, policies of facility, background, prior incidents
Uses of Depositions

- Expand on medical charting to either help Plaintiff or Defense experts with opinions
- Used by Plaintiff’s counsel to pin you down in your testimony to use as cross-examination material
Deposition Tips and Best Practices

Four types of plaintiff’s attorneys to be aware of for your deposition:

- The Ignorant Lawyer - I don’t know nothin’ bout medicine, can you educate me…

- The Pompous Lawyer - I am going to try to intimidate you by throwing out complex medical terms…

- The Intimidator - I am going to be mean and nasty to intimidate you
Deposition Tips and Best Practices

Four types of plaintiff’s attorneys to be aware of for your deposition (Continued):

- The “friendly” lawyer – Jokes around, makes light of stuff (note: all designed to get you to drop your guard and say things without thinking.

THIS IS AN OPEN BOOK TEST - USE THE MEDICAL RECORDS!!!!
Expert Discovery

- Plaintiff Experts
- Defense Experts
Mediation
Trial

Before Trial - Conferencing and scheduling testimony

- Review EVERYTHING given to you by Attorney
- Conference with Attorney for testimony preparation
- Relax and Remember - You are not on trial, you are just a witness
Trial

- Jury selection
- Opening Statements
- Presentation of Witnesses
- Closing Statements
- Jury Deliberation - Verdict
Post-Trial: It Isn’t Over Yet????

- Post - Trial Motions (Set-offs; New Trials)
- Appeals
  - Brought by either side
  - Purpose to have higher court rule on point of law
  - Potential Post Trial Settlement
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