

A MOCK JURY TRIAL YOU BE THE JURY!!!

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CAYMAN
CAPTIVE
FORUM
2018

PARTIES TO THE SUIT:

Moderator/Judge:

Clare M. Bello, *VCM, A CCMSI Division*

Trial Participants:

John W. Barker, Esquire, Vigorito, Barker, Patterson, Nichols & Porter, LLP
(Plaintiff Counsel)

Mamie Stathatos-Fulgieri, Esquire, *Vigorito, Barker, Patterson, Nichols & Porter, LLP* (Defense Counsel)

Kent Teeters, *Beaumont Health* (Defense Expert Witness)

Elizabeth M. Willing, *VCM, A CCMSI Division* (Plaintiff)



POLLING INSTRUCTIONS

- Throughout this session, you will be asked to provide us with your opinions. We will do this through a process called “Polling”
- Using your phone, tablet, or laptop to respond you will either:

logon to the session at PolleEv.com/clarebello474;

OR

you can participate by sending send a text of CLAREBELLO474 once to 22333 to join (if you are not from Cayman – beware of text charges. The URL method might be best)

- Each polling slide will have these instructions as well so just follow the prompts to answer interactive questions as they are opened during the presentation.

WELCOME TO JURY DUTY!



AGENDA

- Introduction of the Case
- Defendant Physician Deposition
- Mock Trial
- Jury Verdict and Discussion



THE FACTS:

Wilson v. Blue Ribbon Hospital and Dr. Gall

THE PARTIES

- Plaintiff, Joanna Wilson
- Plaintiff's Husband, Don Wilson

- Defendant Facility, Blue Ribbon Hospital
- Defendant Physician Practice, Blue Ribbon Surgical Group
- Defendant Surgeon, Dr. Aiden Gall
- Defense Expert Witness, Dr. Edna Schwartz



THE FACTS:

- Plaintiff Joanna Wilson is a married thirty-six year old woman who has relocated to Estero, Florida
- A Complaint has been filed on her behalf by Smith & Wesson Law Firm alleging medical malpractice against general surgeon Dr. Aiden Gall, Blue Ribbon Surgical Group and Blue Ribbon Hospital
- All three are our insureds sharing a single \$1,000,000 policy limit. Ms. Wilson was admitted to Blue Ribbon Hospital May 15th to May 18th
- She initially presented to the Emergency Department complaining of five days of fever and right upper quadrant abdominal pain with decreased oral intake
 - She was evaluated in the ER and admitted
- IV antibiotics were started along with pain medications and Zofran for nausea



THE FACTS (CONT.):

- Consultations were obtained with Blue Ribbon Hospital insured Dr. Gall as well as the gastrointestinal service
- Imaging was consistent with gallbladder disease and she was taken into the operating room by Dr. Gall on May 17, 2013 for a laparoscopic cholecystectomy
- The following day she began complaining of right flank pain radiating to her back
- An ERCP was performed by Dr. Adam who found one or more clips on the common bile duct restricting flow
- Thereafter she was transferred to LifeCare Superior Hospital to the service of Dr. Smith for an exploratory laparotomy and further care



THE ISSUES:

- The primary issue in the case is whether a common bile duct injury is a known risk and complication of the surgery or whether this injury was the result of medical negligence
- The consent form is a pre-printed document that is not specific as to which risks are associated with this procedure.
- Whether Dr. Gall should have chosen an open surgical procedure rather than the laparoscopic technique he chose
- Dr. Gall's deposition testimony will be key in our defense both as to the informed consent issue and as to the choice of surgical technique
- We have an expert (Dr. Schwartz) who supports the medicine



THE DAMAGES:

- The claimed damages by the Plaintiff are:

Lost Wages:	\$42,000.00
Loan:	\$10,000.00
Liens:	\$5,777.00
Medical Bills:	\$150,000.00

- Pain and Suffering adds approximately another \$150,000 - \$250,000
- Defense Counsel values the case between \$350,000 and \$500,000
- Plaintiff has demanded \$3,000,000

CURRENT RESERVES:

CLAIM RESERVES:

Indemnity reserve:	\$50,000.00	Expense reserve:	\$63,435.01
Indemnity paid to date:	\$0.00	Expenses paid to date:	\$38,435.01
Outstanding indemnity reserve:	\$50,000.00	Outstanding expense reserve:	\$25,000.00
TOTAL PAID TO DATE:	\$0.00	TOTAL INCURRED:	\$113,435.01

- These are the initial reserves set on this case
- Now that we have a demand and the damages claimed we need to establish settlement reserves

Would you increase the indemnity reserve at this point in the case?

Yes

No

What reserve would you choose for this case at this point in the litigation?

\$100,000 -
\$500,000

\$500,001 -
\$900,000

\$900,001 - \$1
Million

Over \$1 Million
(Excess Policy)

DEFENDANT GALL'S VIDEO DEPOSITION TESTIMONY



THE TESTIMONY:

Dr. Gall's testimony changes this case pretty dramatically. Here's what our defense counsel put in her summary to us:

- Dr. Gall was deposed on January 31, 2018. Unfortunately, his testimony did not go well, in spite of significant preparation with him prior to the deposition. Specifically, Dr. Gall admitted that he chose the wrong technique and that the damages to the Plaintiff were all his fault.
- The Plaintiff's demand remains at \$3,000,000 and our ability to defend the case on liability has been severely damaged. The damages estimated have not changed from \$350,000.
- We are now set for trial on August 8, 2018.
- It is recommended that unless the Plaintiff comes way down in her demand, we may need to try this case on damages.



Would you increase the indemnity reserve as a result of the Dr. Gall's testimony?

Yes

No

What reserve would you choose for this case at this point in the litigation?

\$100,000 - \$500,000

\$500,001 - \$900,000

\$900,001 - \$1 Million

Higher than \$1 Million
(Excess coverage)

TRIAL:

- The Plaintiff did not come down in her demand to settle the case
- As such, we now head to trial

As our jury, who would you find in favor of?

Plaintiff

Defendants

If you found for the Plaintiff, would you attribute liability to Dr. Gall?

Yes

No

If you found for the Plaintiff, would you attribute liability to the hospital?

Yes

No

If you found for the Plaintiff, how much would you award to her?

\$10,000 - \$100,000

\$100,000 - \$300,000

\$300,000 - \$600,000

\$600,000 - \$900,000

\$900,000 - \$1 Million

Higher than \$1 Million

Did the testimony of the expert witness influence your decision?

Yes

No

Did the testimony of the Plaintiff influence your decision?

Yes

No

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THANK YOU

