

A View from Bar

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Overview

1. How the Courts review healthcare decisions.
2. Understanding medical evidence.
3. Putting the medical case in context.
4. Outside influencing factors.

How Courts Review

- Legal principles: "The Law"
- Evidence: "The Facts"

Judicial Decision Making

- Bound by legal principles
- Shaped by evidence presented
- Based on expert opinion

Negligence Principles

- Duty of care
- Breach of standard of care
- Compensable injury
- Causal link
- Proof on a balance of probabilities

Evidence

- Written
- Oral
- Opinion
- Presentation

**Case: Sales Rep v. Doctor
Neurosurgeon and the Hospital**

Facts:

- Significant brain damage
- Rough ride to hospital
- Assessment and C spine precautions
- Surgery
- Subluxation

Case

- X-ray evidence
- Opinions of treating physicians
- Opinions of experts
- Conclusion of court

**Evidentiary Problems –
Outside Factors**

- N/S on duty alone
- Whole system under pressure
- Severity of primary injury – brain damage
- Out of province experts

Outside Factors

- Dysfunctional system
- Inadequate funding
- Changing medical standards
- Simultaneous ongoing events
- Outside resources

- Document #4928109v1

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